United States Court of Appeals

for the Second Circuit



APPELLANT'S BRIEF & APPENDIX

75-7190

IN THE

United States Court of Appeals

FOR THE SECOND CIRCUIT

CLAUDE L. HUNTLEY, JR.,

Appellant,

VS

COMMUNITY SCHOOL BOARD OF BROOKLYN, NEW YORK DISTRICT NO. 14 and WILLIAM R. ROGERS in his official capacity as Community Superintendent of District #14,

Appellees.

B P/S



APPENDIX TO APPELLANT'S BRIEF

(Volume I—Pages 1-477)

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IN THE
UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF NEW YORK

CIVIL NO. 73 Civ 1775

CLAUDE L. HUNTLEY, JR.,

PLAINTIFF

vs

COMMUNITY SCHOOL BOARD OF BROOKLYN, NEW YORK SCHOOL DISTRICT # 14 and WILLIAM R. ROGERS, etc., et al.,

DEFENDANTS

NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT FROM THE FINAL ORDER AND JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

NOTICE IS HEREBY GIVEN that the Plaintiff, above-named, hereby appeals to the United States Court of Appeals for the Second Circuit from the final order and judgment of the United States District Court for the Eastern District of New York, the Honorable Jack B. Weinstein presiding, which dismissed the Plaintiff's action with costs and disbursements to the Defendants.

The Order, so described, was handed down by District Judge Jack B. Weinstein and filed with the Clerk of the United States

District Court for the Eastern District of New York on February 19, 1975.

Respectfully submitted,

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New York, New York 10019
(212) 581-1180

NATHANIEL R. JONES
JAMES I. MEYERSON
N.A.A.C.P.-1790 Broadway
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(212) 245-2100

Attorneys for Plaintiff

BY: James I. Meyerson

DATED: New York, New York

CERTIFICATE OF SERVICE

James I. Meyerson, one of the attorneys for the Plaintiff, certifies that on the 12th day of March, 1975, I did serve a copy of the foregoing Notice of Appeal upon the attorney for the Defendants by mailing the same, postage prepaid, first class, to Deborah Rothman, Esq., Office of the Corporation Counsel, City of New York, Municipal Building, Room # 1639, New York, New York 10007.

Respectfully submitted,

James I. Meyerson

JAMES I. MEYERSON
N.A.A.C.P.-1790 Broadway
New York, New York 10019
(212) 245-2100

Attorney for Plaintiff

CIVIL APPEAL PRE-ARGUMENT STATEMENT

(To be filed by appelant with Clerk of Court of Appeals and served on other parties within ten days after filing notice of appeal.)

(Attach additional sheets if space is not sufficient)

APPEAL FROM DISTRICT COURT

DISTRICT ▶ E.D.N.Y.

DISTRICT COURT DOCKET NUMBER ▶ 73 Civ 1775

DATE FILED IN DISTRICT COURT ▶ MO. 12 / DAY / YEAR 73

DATE NOTICE OF APPEAL FILED ▶ 3/12/75

RELATED CASE(S) ▶ None

CASE TITLE (Complete)

Huntley,

Plaintiff

vs

The Community School Board of Brooklyn, New York School District # 14, etc., et al.

Is this a cross appeal YES ☐ NO ☒

COUNSEL NAME FOR APPELLANTS: | ADDRESS | TELEPHONE

James I. Meyerson — N.A.A.C.P., 1790 Broadway, N.Y., N.Y. 10019 (212) 245-2100

FOR APPELLEES:

Office of the Corporation Counsel
City of New York, Municipal Building,
New York, New York 10007 (Deborah Rothman, Esq., trial counsel)

(Check One Box Only)

NATURE OF SUIT

CONTRACT	TORTS	ACTIONS UNDER STATUTES: CIVIL RIGHTS	FORFEITURE/PENALTY	PROPERTY RIGHTS
☐ INSURANCE	PERSONAL INJURY	☐ VOTING	☐ AGRICULTURE	☐ COPYRIGHT ☐ TRADEMARK
☐ MARINE	☐ AIRPLANE	☐ JOBS	☐ FOOD & DRUG	☐ PATENT
☐ MILLER ACT	☐ ASSAULT, LIBEL & SLANDER	☐ ACCOMODATIONS	☐ LIQUOR LAWS	OTHER STATUTES
☐ NEGOTIABLE INSTRUMENT	☐ FEDERAL EMPLOYER LIABILITY	☐ WELFARE	☐ R.R. & TRUCK	☐ STATE RE APPORTIONMENT ☐ AGRICULTURAL ACTS
☐ RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	☐ MARINE	☐ OTHER CIVIL RIGHTS	☐ AIR LINE REGS.	☐ ANTI TRUST ☐ ECONOMIC STABILIZATION ACT
☐ OTHER CONTRACT	☐ MOTOR VEHICLE	PRISONER PETITIONS	☐ OTHER	☐ BANKRUPTCY TRUSTEE ☐ ENVIRONMENTAL MATTERS
REAL PROPERTY	☐ OTHER PERSONAL INJURY	☐ VACATE SENTENCE (2255)	LABOR	☐ BANKS AND BANKING ☐ CONSTITUTIONALITY OF STATE STATUTES
☐ CONDEMNATION	PERSONAL PROPERTY	☐ PAROLE BRD. REVIEW	☐ FAIR LABOR STANDARDS	☐ COMMERCE ICC RATES, ETC ☐ RARA, TITLE III
☐ FORECLOSURE	☐ FRAUD	☐ HABEAS CORPUS	☐ LABOR/MGT. RELATIONS	☐ DEPORTATION
☐ RENT LEASE & EJECTMENT	☐ OTHER PERSONAL PROPERTY DAMAGE	☐ MANDAMUS	☐ LABOR/MGT. REPORTING & DISCLOSURE ACT	☐ SELECTIVE SERVICE ☐ OTHER STATUTORY ACTIONS
☐ TORTS TO LAND		☐ CIVIL RIGHTS	☐ RAILWAY LABOR ACT	☐ SECURITIES COMMODITIES EXCHANGE
☐ ALL OTHER REAL PROPERTY			☐ OTHER LABOR LITIGATION	☐ SOCIAL SECURITY
				☐ TAX SUITS

METHOD OF DISTRICT COURT DISPOSITION

Judgment before trial:		Prisoner petition:	
Summary Judgment	☐	Granted	☐
Dismissal	☐	Denied	☐
Other	☐		
Judgment during or after trial:		Injunction:	
Court trial	☐	Granted	☐
Jury trial	☐	Denied	☐
During trial	☐		
Appeal from order:		Damages:	
Preliminary injunction	☐	Granted	☐
Class action	☐	Amount	
Amend answer	☐	$	
Enforce settlement	☐	Denied	☐
Counsel fees	☐	Other relief (specify)	
Stay	☐		
Other	☐		

APPROXIMATE SIZE OF RECORD ▶ | NUMBER OF EXHIBITS ▶ | HAS TRANSCRIPT BEEN MADE? YES ☐ NO ☐

BRIEF DESCRIPTION OF NATURE OF CASE AND RESULT BELOW:

The Plaintiff, a Black man, was hired as a principal of Intermediate School # 33 in Brooklyn, New York School District # 14. He was the first Black person hired as a principal in said District or in the schools which now comprise said District. He performed his duties for three years; and approximately one month before he was to be considered for tenure, he was terminated. He had been hired as part of an affirmative action program. He charged discrimination in his firing and the deprivation of

(cont. on back-side)

ISSUES PROPOSED TO BE RAISED ON APPEAL:

The issue raised on appeal is whether or not the Plaintiff had, as a matter of fact and law, acquired a property interest or a liberty interest sufficient to require that, prior to his termination, he be given due process; and, whether the District Court employed the proper burden of proof standards relative to the issue of discrimination.

I, Attorney for the Appellant, hereby certify that satisfactory arrangements have been made with the court reporter for payment of the cost of the transcript (FRAP 10 (b)). (Check one box)

☒(1) have already ordered the transcript to be prepared OR

☐(2) will order it to be prepared at the time required by the Staff Counsel in the implementation of the Civil Appeals Management Plan.

COUNSEL'S SIGNATURE James I. Meyerson | DATE 3/12/75

. . . .

his constitutional right to due process prior to his termination. The District Court found that he had not been discriminated against because of his race; and that he was not entitled to due process prior to his termination, having acquired neither a property interest or a liberty interest.

FORM D

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

TRANSCRIPT INFORMATION
CIVIL APPEAL

To be completed by counsel for appellant in civil appeal from district court within ten days after filing notice of appeal.

DISPOSITION OF COPIES: (1) to Clerk of the Court of Appeals; (2) and (3) to Court Reporter; (4) Counsel for Appellee (5) retained by Counsel for Appellant.

THIS SECTION TO BE COMPLETED BY COUNSEL FOR APPELLANT

CASE TITLE	DISTRICT	DOCKET NUMBER
Huntley, Plaintiff vs Community School Bd. of Brooklyn, New York School District #[illegible], etc., et al.,	E.D.N.Y.	73 Civ 1775
	JUDGE Weinstein	APPELLANT Claude L. Huntley
	COURT REPORTER	COUNSEL FOR APPELLANT James I. Meyerson, Esq.

TRANSCRIPT ORDER
Must be completed

DESCRIPTION OF PROCEEDINGS FOR WHICH TRANSCRIPT IS REQUIRED (INCLUDE DATES)

[redacted]

I am not ordering a transcript.
Reason:

☐ Daily copy is available.
☒ Other. Attach explanation.

The transcript of the trial proceeding has been secured already.

METHOD OF PAYMENT ☐ FUNDS ☐ CJA VOUCHER (CJA 21)

☐ PREPARE TRANSCRIPT OF PRE-TRIAL PROCEEDINGS
☐ PREPARE TRANSCRIPT OF TRIAL
☐ PREPARE TRANSCRIPT OF OTHER POST-TRIAL PROCEEDINGS
☐ PREPARE (Other Specify)

DELIVER TRANSCRIPT TO: (NAME, ADDRESS, TELEPHONE)

I certify that I have made satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)). I understand that unless I have already ordered the transcript, I shall order its preparation at the time required by the Civil Appeals Management Plan, F.R.A.P. and the local rules.

James I. Meyerson, Esq., c/o N.A.A.C.P., 1790 Broadway, N.Y., N.Y. 10019

COUNSEL'S SIGNATURE: James I. Meyerson | DATE: 3/2/75

COURT REPORTER ACKNOWLEDGEMENT
To be completed by court reporter. Return one copy to clerk, U.S. Court of Appeals.

DATE ORDER RECEIVED	ESTIMATED COMPLETION DATE	ESTIMATED NUMBER OF PAGES
	5	
SIGNATURE OF COURT REPORTER		DATE

-5-

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

CLAUDE L. HUNTLEY, JR.

Plaintiff

- against -

Community School Board District 14 and William A. Rogers in his official capacity as Community Superintendent of District 14,

Defendants.

COMPLAINT

73C 1775

INTRODUCTION

1. This is a proceeding for a preliminary and permanent injunction to restrain defendants and their agents from terminating plaintiff from his position as principal of I.S. 33 without affording plaintiff a fair hearing comporting with due process requirements and for a declaratory judgment declaring plaintiff's termination without a fair hearing unconstitutional as being violative of the due process clauses of the Fifth Amendment and the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States of America.

JURISDICTION

2. The court has jurisdiction over this action pursuant to 28 U.S.C. Section 1331 and Section 1343 Sub-3 and 4 as hereinafter more fully appears, and 42 U.S.C. Section 1983. This is an action seeking redress for the deprivation of the plaintiff's constitutional and civil rights.

3. This is an action in equity, authorized by 42 U.S.C. Sections

1981 and 1983, and 23 U.S.C. Sections 2201 and 2202. The rights to be secured are rights guaranteed by the due process clause of the Fifth Amendment and the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States of America.

PARTIES

4. Plaintiff Huntley is a citizen of the United States and a resident of the State of New York, County of Nassau. On or about the 22nd day of July, 1970, plaintiff Huntley was appointed principal of I.S. 33, an intermediate school operated by defendant Community School Board.

5. Defendant Community School Board 14, (hereinafter referred to as "CSB"), was created by Section 2590 et seq. of the Educational Law and is chargeable under the laws of the State of New York with the control and operation of the intermediate and junior high schools within its district.

6. Defendant Rogers is the Superintendent of CSB and is chargeable with the duties of directing and administrating CSB.

ALLEGATIONS

7. On May 24, 1973 the CSB voted in executive session to terminate plaintiff Huntley as principal of I.S. 33.

8. On May 25, 1973 plaintiff Huntley filed a grievance with the Chancellor of the Board of Education alleging that his termination was illegal because it was taken at an Executive Session rather than at a public meeting.

9. On May 30, 1973 the Chancellor of Education upheld plaintiff's

grievance and found that plaintiff Huntley's termination was illegal since the vote on his removal was held in an Executive Session rather than in a public session.

10. On June 1, 1973 defendant Rogers wrote a letter (attached hereto and marked Exhibit "A") to the defendant CSB member which included several allegations as to plaintiff's "insufficiencies".

11. On June 5, 1973 the defendant CSB held a public meeting, solely for the purpose of voting on the termination of plaintiff Huntley, wherein the letter of allegation written by defendant Rogers (see Exhibit "A") was made public as constituting the basis for requiring the termination of plaintiff Huntley.

12. On June 5, 1973 the CSB voted at a public meeting to terminate plaintiff Huntley's services. Plaintiff Huntley never received a copy of defendant Roger's letter (see Exhibit "A") nor was he given a fair opportunity to confront his accusers, to present his position, explanation and evidence or to refute the charges lodged against him.

13. Plaintiff made numerous requests for a hearing to refute the charges made against him but was informed by defendants and their agents that he had no right to a hearing.

14. The Parents Association of I.S. 33 initiated a grievance to overturn Mr. Huntley's termination.

15. On October 26, 1973 the Board of Education of the City of New York upheld defendant CSB's decision to terminate plaintiff Huntley.

16. The action by defendants was arbitrary, capricious and racially discriminating.

17. The reason that the defendants terminated plaintiff was not based on any objective criteria but was based on the fact that plaintiff refused to

abide by the racially discriminatory policies of defendants in maintaining a segregated education and a school system which was not responsive to the needs of the minority students who constitute a majority of the district.

18. The actions of defendants seriously affected and will continue to affect plaintiff's reputation as a school administrator and thereby will deprive and seriously impair his future employment as a school administrator. The action of defendants capriciously, arbitrarily and discriminatorily interfered with his reasonable expectancy of his continued employment as the principal of I.S. 33.

19. Defendants' procedure in terminating plaintiff did not comport with basic due process requirements. Plaintiff has no adequate remedy at law, and defendants will continue to cause plaintiff irreparable harm, unless enjoined by the court.

20. For each and all of the following reasons, the actions complained of and the law challenged herein violate the plaintiff's rights under the Civil Rights Acts of 1866 and 1871 (42 U.S.C. §§1981 and 1983), the Due Process Clause of the Fifth Amendment and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, plaintiff prays that this court:

1. Enter a preliminary injunction ordering the defendants to reinstate plaintiff with retroactive pay and all amenities and increments attendant thereto until the final determination of this cause.

2. Enter an order declaring the action of defendants to be unconstitutional of the Due Process and Equal Protection Clauses of the Fifth and Fourteenth Amendment to the United States Constitution.

3. Enter an order declaring that the defendants' actions were arbitrary, capricious and racially discriminatory in violation of plaintiff's rights afforded to him under the Fourteenth Amendment to the United States Constitution (42 U.S.C., Section 1981).

4. Grant plaintiff his costs and attorneys fees in this action.

5. Grant plaintiff such other and further relief as this court may determine just and equitable.

Respectfully submitted,

THOMAS HOFFMAN
200 West 57 Street, Suite 605
New York, New York 10019
(212) 581-1180

JAMES I. MEYERSON
N.A.A.C.P.
1790 Broadway
New York, New York 10019
(212) 245-2100

Attorneys for Plaintiff

VERIFICATION OF COMPLAINT

CITY OF NEW YORK)
) ss:
STATE OF NEW YORK)

CLAUDE L. HUNTLEY, being first duly sworn, deposes and says that he is the plaintiff named herein, that he has read the attached Complaint, and that the facts recited therein are true to the best of his knowledge and belief.

Claude L. Huntley Jr.
CLAUDE L. HUNTLEY

Sworn to before me this 30th day of March, 1973.

Notary Public

My Commission expires:

THOMAS J. COFFMAN
NOTARY PUBLIC, STATE OF NEW YORK
No. 31-0931265
Qualified in New York County
Commission expires March 30, 1974

Exhibit "A"

BOARD OF EDUCATION
CITY OF NEW YORK
OFFICE OF SCHOOL DISTRICT FOURTEEN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

965-4800

WILLIAM A. ROGERS
COMMUNITY SUPERINTENDENT

June 1, 1973

To: Community School Board Members - District 14

Re: Mr. Claude Huntley

Ladies and Gentlemen:

I am requesting the removal of Mr. Claude Huntley as Acting Principal of I.S. 33. Mr. Huntley has, over a protracted period of time, failed to demonstrate that quality of professional leadership necessary to effectively deal with the educational program at I.S. 33. Consequently, the school situation has rapidly deteriorated. Instances of his insufficiencies are as follows:

Mr. Huntley has not been able to implement an effective educational program. He has demonstrated an inability to provide the necessary leadership in working with a staff of professional teachers and supervisors. He has not provided for the basic safety of the children and staff of the school. He has failed to maintain a reasonably functional educational plant that is conducive to an effective learning environment.

Mr. Huntley has not effectively resolved problems that occurred in the administration and supervision of the school. He has failed to anticipate problems and implement action that would provide a reasonable instructional atmosphere. He has not communicated as educational and administrative leader in a manner to provide a viable educational program.

Mr. Huntley has been ineffective in implementing recommendations and suggestions to improve the educational climate of the school. He has failed to utilize the additional resources that were provided to create an effective school program.

The leadership of Mr. Huntley at I.S. 33 has created a climate of confusion and discontent in the school. The educational climate of the school is now one of general disorder thus depriving many children of a proper and effective learning situation.

As the Community Superintendent, it is, therefore, my responsibility to recommend to the Community School Board of District 14 that Mr. Claude Huntley be dismissed as Acting Principal of I.S. 33.

Very truly yours,

-12-

2902 JAN23'74

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

CLAUDE L. HUNTLEY, JR.

Plaintiff : 73 Civ 1775

-against-

ANSWER

Community School Board District 14 and William A. Rogers in his official capacity as Community Superintendent of District 14,

Defendants.

Defendants, by their attorney ADRIAN P. BURKE, Corporation Counsel, answering the complaint:

1. Deny those allegations in paragraphs "1", "2" and "3" thereof that allege or imply that plaintiff was denied any of his constitutional rights or that such rights were violated.

2. Deny so much of paragraph "4" thereof as alleges that plaintiff was appointed as principal.

3. Deny the allegations contained in paragraph "5" thereof and respectfully refer the Court to Article 52-A of the N. Y. Education Law (Section 2590-a et seq., particularly §2590-e) wherein is set forth the powers and duties of defendant Community School Board #14.

4. Deny those allegations in paragraph "6" which relate to the powers and duties of defendant Rogers and respectfully refer the Court to N. Y. Education Law §2590-f for a full statement thereof.

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5. Deny the allegations contained in paragraphs "7", "8", "9", "10", "11", "12", "13" and "14" thereof and respectfully refer the Court to the annexed report of David Stein, Hearing Officer and the Order of Chancellor Irving Anker for a full statement of the history of this controversy (Exhibit "I").

6. Deny the allegations in paragraphs "16", "17", "18", "19" and "20" thereof.

FURTHER ANSWERING THE COMPLAINT AND FOR A FIRST SEPARATE AND COMPLETE DEFENSE THERETO, DEFENDANTS ALLEGE:

7. The complaint fails to state a cause of action.

FOR A SECOND SEPARATE AND COMPLETE DEFENSE THERETO, DEFENDANTS ALLEGE:

8. Plaintiff's service at Intermediate School 33 was at all times in acting capacity.

9. Plaintiff had neither a permanent appointment nor the legal prerequisite therefore.

10. In terminating plaintiff, defendants made no charge against him impugning either his honesty or integrity and evaluated his performance utilizing proper administrative and educational criteria (Exhibit "A" to plaintiff's complaint).

11. Plaintiff's termination in no way foreclosed his future employment. Plaintiff continues to be employed in the City School District of the City of New York.

12. Plaintiff was therefore not deprived of either property or liberty by his termination.

FOR A THIRD SEPARATE AND COMPLETE DEFENSE THERETO, DEFENDANTS ALLEGE:

13. On June 25, 1973, July 5, 1973, July 13, 1973 and July 20, 1973, a hearing was held before David Stein, Esq., a hearing officer designated by the Chancellor of the City School District of the City of New York.

14. The hearing was held on the grievance before the Chancellor in:

ADA PRATT, LEROY O. FREDERICKS and ANGEL REYES,

Petitioners,

-against-

COMMUNITY SCHOOL BOARD DISTRICT 14

15. Grievants at said hearing challenged the termination of plaintiff as Acting Principal of Intermediate School 33.

16. Plaintiff attended all of the above hearings and testified extensively.

17. Thus even if a "due process hearing" were required herein, said requirements have already been met.

FOR A FOURTH SEPARATE AND COMPLETE DEFENSE THERETO, IN THE ALTERNATIVE TO THE THIRD DEFENSE HEREIN, DEFENDANTS ALLEGE:

18. New York Civil Practice Law and Rules §217 provides:

§ 217. Proceeding against body or officer, four months.

Unless a shorter time is provided in the law authorizing the proceeding, a proceeding against a body or officer must be commenced within four months after the determination to be reviewed becomes final and binding upon the petitioner or the person whom he represents in law or in fact, or after the respondent's refusal, upon the demand of the petitioner or the person whom he represents, to perform its duty; or with leave of the court where the petitioner or the person whom he represents, at the time such determination became final and binding upon him or at the time of such refusal, was under a disability specified in section 208, within two years after such time.

19. As alleged in the complaint, plaintiff is challenging the action of defendants taken on June 5, 1973.

20. Said action is alleged to be illegal, arbitrary and capricious. If challenged in the courts of New York State, said action would be challenged in a proceeding under Article 78 of the New York Civil Practice Law and Rules which could therefore only be instituted within the time limit set forth in N.Y. CPLR §217 as set forth above, to wit, four months.

21. As this action was instituted more than four months after June 5, 1973, the action is barred by the N.Y. Statute of Limitations.

FOR A FIFTH SEPARATE AND COMPLETE DEFENSE THERETO, DEFENDANTS ALLEGE:

22. Plaintiff is a black person who does not possess a license for a supervisory position in the New York City School System.

23. There is now pending in the United States District Co[illegible] for the Southern District of New York an action entitled:

> BOSTON H. CHANCE, LOUIS C. MERCADO, CLARA BURGESS, FAITH RINGGOLD, SHIRLEY RANDALL, MARIA C. CESTERO, EDWARD BOHNEMERT and MARIA SANTOS, individually and on behalf of all others similarly situated,
>
> Plaintiffs-Appellees,
>
> -against-
>
> THE BOARD OF EDUCATION OF THE CITY OF NEW YORK; MURRAY BERGTRAUM, individually and in his capacity as President of the Board of Education; ISAIAH E. ROBINSON, JR., individually and in his capacity as Vice-President of the Board of Education; MARY E. MEADE, SEYMOUR P. LACHMAN, and JOSEPH HONSERRAT, individually and in their capacities as members of the Board of Education; THE BOARD OF EXAMINERS; GERTRUDE E. UHSER, individually and in her capacity as Chairman of the Board of Examiners; JAY E. GREENE, MURRAY ROCKAWITZ and PAUL DENN, individually and in their capacity as members of the Board of Examiners; HARVEY B. SCRIBNER, individually and in his capacity as Chancellor of the City School District of the City of New York; and FREDERICK H. WILLIAMS, individually and in his capacity as Executive Director of the City School District of the City of New York.
>
> Defendants-Appellants.
>
> CHARLES WIENER (Pro Se), Proposed Defendant-Intervenor-Appellant.

24. An order issued in said action by the Honorable Walter R. Mansfield, Circuit Judge, provides in part:

> II. All conditions precedent prescribed by Rule 23(a) of the Federal Rules of Civil Procedure having been met, the action is determined to be a class action maintainable under Rule 23(b)(2). The class shall consist

of all blacks and persons of Puerto Rican or Latin American descent or origin who would have been or may become eligible for regular appointments to supervisory positions in the New York City School System but for their failure to possess the licenses which have in the past been issued on the basis of the supervisory examination procedures hitherto conducted by defendants.

III. A hearing shall be held before this Court on the 28th day of June, 1973, at 10 o'clock A.M. in courtroom No. 501, in the United States Courthouse, Foley Square, New York, New York, for the purpose of determining whether the settlement of this action between plaintiffs, defendant Board of Examiners, and defendant Scribner, Chancellor of the City School District of the City of New York, pursuant to the terms and conditions of said Stipulation of Settlement if fair, adequate, in the best interests of the members of plaintiffs' class, and should be finally approved by the Court, and a final judgment entered pursuant to the terms and conditions of said Stipulation.

IV. Any member of plaintiffs' class shall be given an opportunity to be heard with regard to whether the settlement proposed by the Stipulation of Settlement shall be finally approved by the Court and to present any evidence at the hearing which may be proper and relevant with regard to the fairness and adequacy of the Settlement, and whether it is in the best interests of the members of plaintiffs' class, provided, however, that no person who is not a party to this action shall be heard and no papers, briefs, or evidence shall be received or considered by the Court from any such person (unless the Court shall in its discretion otherwise direct) unless a Notice of Intention to Appear and copies of any papers and briefs to be presented at the hearing shall have been filed with the Clerk of this Court and shall have been served on or before the 22d day of June, 1973, upon Jack Greenberg at 10 Columbus Circle, New York, New York 10019, and upon Elizabeth B. DuBois, at 30 East 39th Street, New York, New York 10016, attorneys for plaintiffs, Kaye, Scholer, Fierman, Hays & Handler, Esqs., attorneys for defendant Board of Examiners, 425 Park Avenue, New

York, New York 10022, and The Corporation Counsel of the City of New York, attorneys for defendant Board of Education and certain other defendants, Municipal Building, New York, New York.

25. A partial final Judgment in said action was rendered on July 12, 1973 which Judgment provides inter alia:

> Plaintiffs and the members of plaintiffs' class are hereby severally and perpetually enjoined from instituting or prosecuting any suit or other proceeding in any Court based upon or for the purpose of enforcing any claim or right or cause of action which is included in or comprehended by any of the claims or causes of action or controversies asserted in the amended complaint in this action, and all claims which might have been asserted against the defendants with respect to or in connection with the actions complained of therein, all of which claims and causes of action are hereby decreed to be compromised, settled and extinguished by virtue of the proceedings in this action and this Judgment.

26. Under the above referred stipulation only certain members of the class referred to therein are entitled to the rights and privileges of licensed personnel, including inter alia, the right to a due process hearing or the alternative right to a grievance hearing prior to termination of their employment.

27. Said stipulation is made applicable to Community School Boards and their employees.

28. Although a member of the calss declared and represented in the above cited action, plaintiff is not granted the rights referred to in paragraph 26 of this answer because of the limited applicability of the settlement to the members of the class.

29. Plaintiff is therefore barred from asserting any claim for a "due process hearing" in any form other than the above referred to action.

AND FOR A SIXTH DEFENSE ON BEHALF OF DEFENDANT COMMUNITY SCHOOL BOARD 14, DEFENDANTS ALLEGE:

30. Defendant Community School Board 14 is a governmental entity and not a "person" within the meaning of 42 USC 1981 and 1983 and therefore not liable to plaintiff.

WHEREFORE defendants pray that this Court grant judgment in their favor dismissing the complaint with prejudice and further grant defendants the costs of this action.

Yours, etc.

ADRIAN P. BURKE
Corporation Counsel
Attorney for Defendants
Municipal Building
New York, N. Y. 10007
566-2419/2192

By: Ellen F. Siegel
Assistant Corporation Counsel

BOARD OF EDUCATION
OF THE CITY OF NEW YORK
110 LIVINGSTON STREET
BROOKLYN, N.Y. 11201

IRVING ANKER
Chancellor

August 23, 1973

Members, Community School Board 14

Mrs. Ada Pratt, President
Parents Association, I.S. 33-K

Re: Parents Association
I.S. 33-K v. C.S.B. 14

Ladies and Gentlemen:

I have received and considered the report of the Hearing Officer on the grievance of the Parents Association of I.S. 33-K concerning the action of Community School Board 14 in discontinuing the assignment of Mr. Claude L. Huntley as Acting Principal.

Prior to the initiation of this grievance, I had upheld the complaint of the Parents Association that the Community School Board had failed to take action at a public meeting and I directed that the action of the Community School Board be stayed until its action was ratified at a public meeting. I informed the Parents Association that if action were taken at a public meeting which the Parents Association felt was improper, a new grievance could be submitted.

Following action taken at a public meeting, the Parents Association filed a new grievance. In assigning this to the Hearing Officer, I directed that those aspects of the grievance which related solely to the personal rights of Mr. Huntley would not be heard by the Hearing Officer.

The Hearing Officer has found that the acts of the Community School Board did not violate applicable laws, rules, regulations, or By-Laws and that no proof of discriminatory motivation was shown. I accept the findings of the Hearing Officer and in accordance with those findings, the grievance is dismissed.

It is so ordered.

Very truly yours,

Irving Anker

IRVING ANKER
Chancellor

IA:is
cc: Mr. William Rogers, Comm. Supt.
Martin Needleman, Esq.,
Atty. for Petitioners
John C. Coffee, Jr.
Atty. for C.S.B. 14
Mr. Alfredo Mathew, Jr.
Michael B. Rosen, Esq.

Exhibit E

BOARD OF EDUCATION CITY OF NEW YORK

ADA PLATT, LEORY O. FREDERICKS and ANGEL REYES,

Petitioners

-against-

COMMUNITY SCHOOL BOARD DISTRICT 14

REPORT TO THE CHANCELLOR

David Stein
41 East 42nd St.
New York City 10017

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BOARD OF EDUCATION CITY OF NEW YORK

- -X

ADA PRATT, LEROY O. FREDERICKS and ANGEL REYES,

Petitioners:

-against-

REPORT TO THE CHANCELLOR

COMMUNITY SCHOOL BOARD DISTRICT 14,

Respondent.

- -X

(Figures in parentheses, unless otherwise indicated refer to pages in stenographic transcript.)

TO THE CHANCELLOR OF THE BOARD OF EDUCATION OF THE CITY OF NEW YORK:

Under date of June 7, 1973 the above named petitioners filed a grievance with you against the above respondent in reference to the removal of Mr. Claude L. Huntley as Acting Principal of I.S. 33 in District 14(K). The petitioner Ada Pratt is the President of the Parents Association in the school; the petitioners Leroy O. Fredericks and Angel Reyes are members of the Community School Board.

Under date of June 15, 1973 I was advised of my appointment as Hearing Officer in the above matter and on June 19, 1973 I served notice of preliminary hearing on the parties; the

preliminary hearing was held at the office of the Board of Education on June 25, 1973; it was continued on July 5 and further to July 13 and July 20, on which latter date all of the testimony was completed and counsel for the respective parties were accorded time in which to brief their respective arguments.

I was attended at the hearings by Martin Needelman, Esq., the attorney for the petitioners, and by John Coffee, Esq., the attorney for the respondent. In addition, the petitioners Ms. Ada Pratt, Mr. Leroy Fredericks and Mr. Angel Reyes appeared together with Mr. Claude L. Huntley, Jr., the Principal whose removal is the subject matter of these proceedings; also present were divers members of the Community School Board and other interested parties.

PRIOR HISTORY OF PROCEEDINGS

Under date of May 25, 1973 Mr. Huntley, Mr. Fredericks and Ms. Pratt by their attorneys, Fleming and Zulach, filed a grievance with you complaining of irregular acts in the removal of Mr. Huntley. At the same time Mr. Huntley himself addressed a grievance to you in the form of a letter dated May 25, 1973, in which he stated among other things "my lawyers [Fleming & Zulach, Esqs.] have advised me that the action of the Community School Board was patently illegal

because it was taken at an executive session rather than at a public meeting". Under date of May 30, 1973 you issued an order directing the Community School Board to stay all action in the matter and to reinstate Mr. Huntley "...until such time as its action is adopted or ratified at a duly noticed public meeting". You specifically permitted the petitioners to submit a new grievance in the event that public meeting action was not taken.

It is the action taken at the public meeting held on June 5, 1973, pursuant to the directions of your letter of May 30, 1973, which form the basis of the present proceedings.

I should add that although Mr. Huntley, the principal and the person primarily affected by the actions complained of, is fully aware of the proceedings before me, he has not renewed his grievance or complaint. Mr. Huntley attended all of the hearings and gave extensive testimony (150 to 191) on behalf of the petitioners.

THE GRIEVANCE

The grievance is contained in a 5-page letter asserting the following points, which I summarize:-

I. The location of the special meeting called on June 5, 1973 at 3:30 p.m. was improper in that it "imposed particular financial hardships on parents" because of the

distance from the community site, the necessity of traveling "into hostile white Greenpoint territory" to the meeting and because the time of the meeting made it impossible for many parents to leave employment and attend.

II. The subject matter of this specification alleges a failure by the Community School Board to apprise Mr. Huntley or the Parents Association of the charges.

In the letter of your counsel dated June 12, 1973, referring this matter to me, special reference was made to the fact that the claimed requirement for the service of charges (under the provisions of Section 2590-j of the Education Law) was not a subject to be raised before me. Similarly, in your counsel's letter of June 15th addressed to Ms. Pratt and members of the Community School Board, attention was called to the fact that findings and recommendations were to be made on the issues raised in points 1, 3, 4 and 5 of the grievances (thus omitting item 2).

III. Under this item, petitioners complain [(A) and (B)] that a special public meeting for Mr. Huntley's removal should not have been called and that such business should have been included in the agenda for the regular monthly meeting. In items (C) and (D) petitioners complain of the failure to provide adequate knowledge or reading of the charges against

the superintendent at the public meeting. In items (E) and (F) petitioners complain that there was improper restriction in the number of speakers and the time alloted for each speaker at the meeting; further, that speakers were interrupted and ill-treated. In item (G) petitioners complain that the superintendent and the Community School Board declined to answer inquiries by persons in attendance at the meeting. In item (H) petitioners complain of the restriction against the reading of provisions of the Education Law (2590-j). In item (I), the petitioners complain of a restriction against Mr. Fredericks speaking for more than five minutes and to the denial of the floor to others present.

IV. The item IV contains the allegation that one member of the School Board "was not aware of the vote taken on the resolution" and that "the audience was not aware that a vote was taken".

V. Item V is a generalized indictment containing various demands and declarations in reference to the conduct of the meeting and the actions of the Community School Board.

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THE ISSUES

In a letter addressed to me under under date of July 2, 1973 (which letter was intended and is accepted as an amend-

ment of the grievance) Martin S. Needelman, Esq., the attorney for the petitioners organized the issues raised by his clients into four categories, viz.:

Issue 1. The claim that "a majority of the members of CSB 14 did not publicly vote for Mr. Huntley's removal at the June 5, 1973 Special Board meeting."

Item 2. The location, timing, "heavy police presence" and conduct rendered the meeting invalid to meet the requirements of a "public meeting."

Item 3. The action in terminating Mr. Huntley's employment was the result of bias against him because he is a Black.

Item 4. The failure of the Board and the Superintendent to consult with the Parents Association rendered the proceedings invalid.

I shall treat with Mr. Needelman's statement of the issues in the following order: 1. The time and place and conduct of the meeting (Mr. Needelman's issue #2); 2. The claim that Mr. Huntley's removal was the result of bias or prejudice (Mr. Needelman's issue #3); 3. The claim that there was no public vote on the removal (Mr. Needelman's issue #1); and 4. The claim that the Board's failure to consult with Parents Association prior to taking steps for the removal of Mr. Huntley invalidated the proceedings (Mr. Needelman's issue #4).

1.

The Time, Place and Conduct of the Public Meeting of June 5.

The hopeless inconsistency of the charges in this category demonstrate the antagonism with which the petitioners approached the meeting. Petitioners claim that they were not accorded enough time to express their opposition to the removal, yet they also complain that the resolution should have been submitted at a regular meeting (when other business would be handled) rather than at a special meeting of the Board. Petitioners suggest that there was great disorder, and that the meeting was called in "hostile white" territory, yet they complain that the Board afforded police protection. Petitioners complain that there was a "heavy police presence" and that the attendance of 11 plain clothes police officers was a harassment of the parents, yet they admit that the police acted in an entirely unobtrusive manner; petitioners complain that there were a great number of policemen on the street near the school, yet they admit that the school is located in the same block with the police stationhouse. Petitioners claim that the presence of the police created a restraint on the citizens, yet they have failed to indicate a single act of untoward conduct by the officers and one of the petitioners (Mr. Fredericks) admitted that at the 7.

point of greatest provocation (when one Rev. Moses obviously attempted to create a serious disturbance by wresting the microphone from a Board member's hands) the police exercised the greatest of self-restraint and "just stood around and didn't do a thing" (72); the single affirmative act on the part of the police, testified to by any witness, was the rendering of assistance to the petitioners in the parking of their motor vehicles upon arriving at the school (116). I am satisfied that the police protection afforded was in an orderly, dignified and entirely inoffensive manner. The Board acted in direct accord with the citation in Petitioners' post-trial letter-brief which quoted from a Hearing Officer's report in "Complaint against CSB #6" to the effect that it is the Community School Board's duty to protect against violence "...by the hiring of private guards or arranging for police protection."

Petitioners complain that the calling of the meeting during afternoon hours was a device to deprive many of the opportunity to attend. Yet the need to hire "baby-sitters" were the meeting called for the evening hours might have presented a greater determent, as would the necessity of travelling, at night, through what the petitioners call "hostile white Greenpoint territory".

Most important on this score was Petitioner Pratt's admission (129-130) that she prefers afternoon meetings ("I would like to be with my family when night comes") and the uncontradicted testimony that Petitioner Frederick had suggested "...having the meetings in the day time and at night and at different times and at other times he suggested rotating them." (307).

The objection to the place of the meeting (at I.S. 33 Annex) was similarly captious. The school was one over which Mr. Huntley presided as Principal (52) and was closest to the then chairman's home, an important consideration in view of the fact that he had recently suffered a heart attack (347). Most important of all, it was convenient enough to permit, on short notice, some 350 to 500 people to attend (133).

Somehow, in spite of the "police harassment" and the "great distance" of the school, and the "inconvenience" in time of meeting, the auditorium was "filled to the rafters" and apparently every concerned official and "community leader" attended. I heard no testimony whatever that any person was denied access to the meeting or denied the opportunity to attend. The suggestion of grievance here is that some unidentified persons "might" have been unable to attend or that were it not for the Parents Association providing

transportation, there "might" have been some who could not come.

The Conduct of the Meeting

I quite agree with petitioner's counsel when he said (235) "I would suggest that they [the tape recordings of the meeting] are difficult to comprehend, specifically at the moments when we are particularly concerned about them, particularly on the issue of voting...and I think that the best evidence of the situation that we have had is personal testimony from witnesses..."

I have listened to the tapes (marked in evidence as exhibits E 1 and E 2) several times and have reviewed the testimony of the witnesses on both sides. I am satisfied that the version of the voting given by respondents, Brother Robert Lally, a cleric, now President of the Board and by Mr. Thomas Strollmenger, a member of the Bar and secretary of the Board is the truthful and accurate one. The proceedings before the voting took place are quite clear on the tape. The bedlam that broke out when Reverend Moses tried to prevent the vote by seizing the microphone from the hands of Mr. Bonomo (see below) makes it difficult to distinguish voices and statements above the cat-calls, shouts and screaming of the audience. It is clear, however, that a vote was

distinctly called for (in spite of the denials of the petitioners on this score) and a vote was taken.

The following, a composite of the tapes and the credible testimony from the lips of the witnesses, is a summary of the events at the meeting:

The meeting was called to order and the secretary was directed to take a roll call. Thereupon the agenda was read including the proposed resolution to relieve Mr. Huntley and assign an acting principal; this was followed by the secretary reading "the explanation" and the recommendation of Mr. Rogers, the Community Superintendent, which set forth Mr. Roger's reasons for requesting Mr. Huntley's removal.

The Chairman then announced that he would allow thirty minutes for discussion, that is 3 minutes for each speaker. The secretary was asked to keep time. The letter of May 20th calling the meeting (Exhibit 1) was read, together with the charges against Mr. Huntley.

The first speaker was a Mrs. Moses who, after exhausting her three minute allotment was given an extra minute tc conclude.

Thereafter Mr. Fredericks, a member of the Board and one of the petitioners in this proceeding, interrupted and attempted to address the audience. He was admonished not to

infringe on the other speakers' time and was promised that he would have the opportunity to speak after the members of the public had concluded.

The next two speakers were Mrs. Carolyn Hupe (who urged Mr. Huntley's qualifications) and Mrs. Mattie Raine Horn (138) who claimed to have tapes of a teachers' meeting which she would not let the Board have (14?;145). At this point Mr. Fredericks sought to question the Board/which a procedure the Chair did not permit, stating that neither the Board nor the Superintendent would be obliged to or would answer inquiries.

The next speaker was a lady who complained that members of the Community Board had their children in private schools and that the Board had not helped Mr. Huntley in his "impossible job"; she further complained that the teachers were to blame since they did not support Mr. Huntley, concluding her remarks with the threat "If Mr. Huntley is not in the school in September you won't have no school."

The next speaker was a teacher from a parochial school in the neighborhood who read a prayer to have all the evil cast out of the meeting and then announced that Mr. Rogers was not qualified for his position as Superintendent.

The next speaker was a Mrs. Jolly (?) who spoke generally, pleading for an education for her children; she was

followed by a Dr. Colby who attempted to read Section 2590-j of the Education Law. The Chairman tried to restrain this reading, explaining that it would serve all purposes if he would merely announce the section of the law he had in mind so as to avoid using up the time of other speakers.

The chair then announced that the time for discussion had elapsed and Mr. Fredericks was called and allowed five minutes to speak. [At this time the tapes become quite inaudible by reason of screaming, cat-calls and general bedlam.] At this point Mrs. Pratt, one of the petitioners, the PTA President, rose and was given the floor even though the time for speakers had generally elapsed. She stated that the teachers would not cooperate with Mr. Huntley, and repeated the threat that "we are going to have Mr. Huntley in I.S. 33 or we are not going to have any school."

Mr. Fredericks was then granted the five minutes he had been promised. He chose to use his time by a satiric reading of the charges against Mr. Huntley substituting Superintendent Rogers' name wherever Mr. Huntley was mentioned. This histrionic effort produced a heated argument between Mr. Fredericks and the chair with the audience responding with increased shouting.

As Mr. Bonomo, a member of the Community School Board attempted to make a point of information, the chair announced the taking of the "roll call vote". At this point the Reverend Moses rushed to the platform where the Board was sitting and wrenched the microphone from Mr. Bonomo's hands, announcing that he was going to prevent the Board from voting and was going to have the members of the audience take their own vote. (188; 178; 146; 174; 180; 196; 211; 213; 214; 349) Reverend Moses, who was described by petitioners' witness as the head of a parish in the neighborhood, who lives in the nighborhood and who "...wanted the people in the audience to vote rather than the Community School Board to vote" announced "I'm going to turn this over to the community so that they can vote on whether they want Mr. Huntley in the school or not:" (214). At this point the police moved to the stage. Another of petitioners' witnesses described the episode as one in which "a person got up to take the vote and at the time he got up to take the vote ..."someone "came to the stage and jerked the mike and said 'No, you won't take a vote, the community will take a vote.!' " "...that's when all hell broke loose..." (146). Mr. Huntley testified that at that point the police "reacted" and approached the podium in an "unobtrusive [illegible]...they did not rush to the

podium." (178)

There is no doubt at all that the Board members remained during the bedlam which ensued. There is no basis whatever for Mr. Needelman's contention in the record (225) that the Board "...didn't want to vote in public, they wanted to get out of there and not come back and not face the group of people." The vote was taken on roll call by the secretary, as testified to by Brother Lally (268 et seq. and 290 et seq.) and by Mr. Strollmenger (356 et. seq.).

I accept the version of the respondents that a vote was actually taken not alone from the tapes themselves, but on the basis of the credibility of the witnesses. The petitioners (in spite of the voice recording clearly calling for the vote) were willing to testify that they heard no call for a vote at all (Fredericks: 39; 56; 57 - Reyes: 79).

I conclude, also, that it was the purpose and design of the petitioners to so disturb the meeting as to prevent a vote being taken. This was done by the provocative statements of petitioner, Ms. Pratt (the school will not oper if Mr. Huntley is not there) the sarcastic reading of the charges by Mr. Fredericks and the deliberate violence of Reverend Moses, mounting the stage, wresting away the microphone and openly announcing that the Board would not vote

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and attempting to take his own "peoples" vote. I believe and find that Mr. Strollmenger's testimony (345 et seq.) that the roll was called and every Board member's name was called and that the vote was seven in favor of the resolution discontinuing Mr. Huntley's services with Mr. Reyes voting "no" and Mr. Frederick's vote not discernible and registered as "no" is what actually took place at the meeting.

2.

The Claim that Mr. Huntley's Removal was the Result of Bias or Prejudice.

The suggestion that there was bias or prejudice by the Board because of Mr. Huntley's ethnic origin was not only unsubstantiated but entirely unfair. It should never have been made. Brother Lally testified that he was the President of the Community School Board in 1970 when Mr. Huntley was appointed (296). Mr. Strollmenger was also a member of that Board (351). This Board, which is now obliquely charged with wanting to remove Mr. Huntley because of his color, was the very Board which appointed him three years ago, so it hardly can be stated that there was any anti-black bias in their actions. Moreover, the exhibits offered in evidence and the testimony of Brother Lally show that he and the members of the Board went to great lengths to preserve their absolute right

to appoint Mr. Huntley inspite of serious challenge by the union when the appointment was made. Petitioners' counsel's statement (8) that "...there was reluctance on the part of the school board to appoint Mr. Huntley..." originally was entirely without foundation. The fact is that Brother Lally and the other members of the Board risked citation for a contempt of court in defying an injunction obtained in a proceeding to declare Mr. Huntley's appointment illegal. Far from having a bias against Mr. Huntley, personally, or against members of his ethnic group, Brother Lally testified (269 et seq.) that the Board risked judicial punishment to put Mr. Huntley in office and keep him there because they felt that the appointment was right and that they must stand up for their principles:

On cross examination the contempt proceedings were brought out by petitioners' counsel as was an offer by the Board's adversaries to drop the contempt proceedings if the Board would drop Mr. Huntley. The offer was rightfully spurned but surely could have been accepted by a biased or prejudiced group (pages 297 et seq.):

> Q. (by Mr. Needelman): "Why didn't you accept the offer of the dropping of Mr. Huntley's appointment in exchange for holding you in contempt of court?"

A. (by Brother Lally): "I think the Board decided that we had done, our action, was legal and our action was proper and we were defending our position.

"We were a new Board and we felt if decentralization is going to work, we'd better stand up for something like this."

Of course the Chancellor may not substitute his judgment for that of the Community School Board in the termination of this employment anymore than might be done in hiring. If there were no cause whatever shown for removal, there is serious question as to whether the action can be challenged because without tenure Mr. Huntley had no security and no rights to hearing. But the fact is that there was more than good and sufficient cause in this case. Mr. Huntley admitted in March of 1973 (see Exhibit C attached to respondent's answer) that anarchy was rampant throughout the school. Under date of March 6, 1973 he pleaded to the parents for help because of "too many false fire alarms", "too many fires in various sections of our schools", "too many children roaming the halls", "too many fights in school and after school, especially among girls", "some teachers failing to do their jobs in the classroom", "too much disrespect of authority by the students", "students use of vile obscene and profane language by the students." Moreover it was

testified without contradiction that Mr. Huntley had lost the confiden his staff and that over 50% of the teachers had complained of his inability to run the school (306). The wording of the charges, in view of the foregoing admitted dereliction and shortcomings was conservative and considerate. Certainly the Board had the right to consider the views and protests of 58 teachers (306) who complained of Mr. Huntley without being charged with racial bias.

3.
The Claim that there was no
Public Vote on the Resolution.

As set forth in Point 1 above, I have found that there was a public vote taken and the resolution was adopted by a vote of 7 to 2. This finding should dispose of the point made. But I should add that if the Board takes a vote openly but the individual announcement of the separate votes is not heard by those who are in attendance, because of conditions not caused by the Board the requirements for public vote have been met. That is the case in this instance. If members of the petitioners' group did not hear the vote, it was because members of the petitioners' group deliberately attempted to thwart the vote by creating bedlam, noise and violence. Certainly the petitioners are not to be heard to complain that their own acts prevented hearing the vote

being taken and that the vote was not "public" because the public shouted it down.

If it is to be argued that noise, riot and bedlam vitiate the effect of a meeting and destroy the efficacy of the vote of the Board, then it lies in the hands of a disrupting few, in any case, to prevent the orderly operation of any meeting and thus prevent the proper functioning of the Board and of the school system itself.

The petitioners here, and the two members of the Board who joined with the petitioners, alleged to the Chancellor that the proceedings were improper because "IV. no vote taken". Petitioners' counsel took the absolute position (11) that "...there was no vote in public by a majority of the Board..", and that (18) "five members of the Board did not vote and, therefore, the resolution is not legal", and that (19) "...the majority of the Board did not vote in public". These allegations and claims were not substantiated.

If the actions of the chair, or of the Board appear arbitrary or capricious the remedy is to vote the Board out at the next election; if the action of the Board is irregular or the result of bias, prejudice or bigotry the remedy is to appeal that action to the Chancellor. Attempts to disrupt the meeting and prevent a vote by cat-calls and bedlam and

provocative action may be understandable to some but never excusable - and, most important, must be rendered ineffective.

The Ratification of the Resolution

At a regular public meeting of the Board held on June 27, 1973, the following resolution was "moved, seconded and passed unanimously." (Exhibit C):

> "3. RESOLUTION: In light of the allegations contained in a complaint to the Chancellor dated June 7, 1973, the Community School Board, District 14, hereby ratifies and confirms the action taken at the June 5, 1973 meeting of the Community School Board, District 14, removing Mr. Claude Huntley as principal of I.S. 33.
>
> "This action shall not be deemed an admission of any allegations contained in the foresaid complaint dated June 7, 1973 (all of which allegations are hereby denied by Community School Board, District 14) but is intended solely to remove any possible ambiguities.
>
> "The motion was moved, seconded and passed unanimously."

The regularity of the action in adopting the resolution cannct be challenged. (275 et seq; 340 et seq.) A quorum was present; the two dissenting members of the Board absented themselves for personal reasons (60; 85) although this was the regularly scheduled meeting. Prior notice of the proposal was given to the President and Secretary as required by ARTICLE II, section 4 of the By-Laws (275).

Under the circumstances, even were the vote at the June 5 meeting irregular, even if it were not publically taken, this ratification would eliminate any room for question. The "ratification" procedure, to cure the "defect" was in fact suggested as a possible remedy in the Chancellor's letter of May 30, 1973 staying the earlier dismissal on the ground that it was taken at a non-public executive meeting. Moreover, the June 27 meeting approved the minutes of June 5 (which set forth the disputed resolution).

Taken in any light, then, the resolution adopted at the June 5 meeting (Exhibit D) must be taken to be effective.

4.

The Claim that the Board must Consult with the Parents Association before Removing a Principal.

Petitioners' counsel argues that parents must be consulted before a supervisor may be removed. The basis for the contention is found in "Parent Associations and The Schools", Section 8:

> "The Board of Education, through the Chancellor, and community school boards shall carry out their powers in frequent prior consultation with their respective parent associations and parent-teachers associations."

The argument that this preamble language must be taken to include consultation in proceedings to remove or discipline

a supervisor is novel but it is unsupported and indeed dangerous for several reasons:-

1. Mr. Huntley does not have tenure. He is not entitled to a hearing or indeed to any explanation if he is not to be rehired. If he had the security of tenure his removal would be governed by Section 2590-j of the Education Law. (It is only an employee "who has served the full and appropriate probationary period..." who is entitled to the protections set forth in that statute.) But even if he had tenure, Mr. Huntley would not have the protection of parental consultation as no such requirement is set forth in the section. Certainly an employee without tenure cannot be entitled to greater protection than that accorded to one who has attained the protective status.

2. The provisions of Section 8 are very specific in the definition of areas wherein parental consultation, even on an advisory basis is required. Thus, in the matter of granting tenure, it is suggested that parents shall meet with the appropriate supervisors so as to establish criteria for evaluation. Thus, in the rating of personnel similar consultations are suggested. Thus, in the matter of selection of principals, acting principals, assistant principals or acting assistant principals there is a direction that

Parent Associations shall be informed of vacancies and consultation shall be had. Thus, Community School Boards are advised to establish consultive procedures for the selection of Community Superintendents and deputies. Thus, Parent Associations are suggested to be consulted, in the matter of the selection of supervisory personnel and in questions of discipline; curriculum, safety, food services, etc. It should be noted that although general provisions are made for consultations in reference to all of these matters, there is no specific provision requiring consultation when matters of removal of persons in the teaching and supervisory services are concerned. Chancellor Scribner pointed out in P.A. Jr. H.S. 263 v. CSB 23(K) that "The policy ["Parents Associations and the Schools"] is silent on the specific question of consultation in questions of removals..."

There is good reason for this silence and it is reasonable to assume that the omission was not an inadvertence.

In order to obtain appointment a candidate opens his pedagogic life to the community. He voluntarily applies for the position. He submits his resume and vitae and he invites inquiry of his references; he understands that his school work and the opinion of his superiors, associates and indeed

his subordinates may be sought. He knows that he will be interviewed, "screened" and reinterviewed. He knows, and it is quite in custom with the theory of decentralization and local participation, that parents will take part in all of this revelation.

But the removal proceeding is an entirely different matter. It may be based upon entirely unsupported allegations which may charge the person with incompetency, insubordination, crime, immorality or dereliction. The charges may be entirely baseless and they may come from idle gossip, unsupported heresay or unprofessional and irresponsible appraisal and they may be motivated by prejudice, ignorance, immaturity, instability, envy, passion, venegeance or other improper bases. Yet charges thus instigated must be investigated. One would hope that if such charges are found to be unfounded an inquiry would result in exoneration and a quiet burial. It would be hardly possible (absolutely impossible) to save the innocent respondent from embarrassment, scandal and disgrace (even if exonerated) were the parents to be "consulted" in advance; for the consultation would be meaningless if the parents were not told of the charges, and revealing the charges would result in a defamation and damage beyond repair. It is entirely possible that

the revelation of charges by "consultation" (especially where such revelation is not specifically and statutorily commanded) would expose the Board to civil liability for defamation.

FINDINGS AND RECOMMENDATIONS

In addition to and supplementing the findings implicit in the foregoing report, I find as follows:

1. The resolution dismissing Mr. Claude Huntley as Acting Principal of I.S. 33(K) was duly adopted at a special public meeting of the Community School Board of District #14 (K) held on June 5, 1973.

2. All of the requisites for the proposal and adoption of the said resolution were duly complied with, including but not limited to proper notice of meeting, agenda, proposed resolution and accompanying acts and proceedings.

3. The Community School Board had the authority to adopt the said resolution.

4. No proof of any prejudice, bias or improper motivation has been shown in the action of the members of the said Community School Board in adoption of the resolution.

5. The resolution adopted at the June 5, 1973 meeting was duly and regularly ratified and approved at a regular public meeting of the Community School Board held June 27, 1973.

6. The Community School Board, under the circumstances here presented, was not required to enter into any consultation with the Parents Association or with any other group or persons as a prerequisite to the adoption of the resolution of June 5, 1973, or the ratification resolution of June 27, 1973.

7. All of the proceedings taken by Community School Board #14 in connection with the matters and things hereinabove set forth have been regular in all respects and in accordance with all statutes, rules, regulations and By-Laws of the Board of Education and of the Community School Board.

8. I find that there were no irregularities in the conduct of the meeting of June 5 which would call for the invalidation of the adoption of the resolution. There was no proof that speakers were harassed by the chair or interrupted (other than for the perfectly proper requirement to state their names and identities or to call them to order when their alloted time had expired). I find that the regulations limiting the speakers to ten in number and the timing of speeches to three minutes were reasonable regulations and were reasonably applied; that all persons requesting speaking time were heard and all subject matters were

appropriately explored. I find that the time and place selected for the meeting of June 5 were appropriate and reasonable and that there was no credible evidence presented that anyone was deprived of the opportunity to attend the meeting by reason of the time or place thereof or that any financial or other hardships were imposed upon parents as a result thereof. I find that the other complaints set forth in the petitioners' grievance are unsubstantiated and unsubstantial.

I RECOMMEND that the petition and grievance herein be dismissed.

Dated: New York, August 23, 1973

Respectfully submitted,

DAVID STEIN
Hearing Officer.

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C. . O. .

VERIFICATION OF ANSWER BY ACTING CORPORATION COUNSEL

State of New York,
County of New York, } ss.:

....., being duly sworn, says that he has been duly designated as Acting Corporation Counsel of The City of New York, and as such that he is an officer of the Defendant, The City of New York, in the above-entitled action. That the foregoing answer is true to his knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true. Deponent further says that the reason why this verification is not made by the Defendant, The City of New York, is that it is a corporation; that the grounds of his belief as to all matters not therein stated upon his knowledge are as follows: Information obtained from the books and records of the Law Department and other departments of the city government and from statements made to him by certain officers or agents of the Defendant, The City of New York.

Sworn to before me, this.....

day of.....19..... .....

VERIFICATION OF ANSWER BY SECRETARY OF THE BOARD OF EDUCATION

State of New York,
County of Kings, } ss.:

....., being duly sworn, says that he has been duly designated as Secretary of the Board of Educat[illegible] of The City of New York, and as such that he is an officer of the same. That the foregoing answer is true to [illegible]s knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true. Deponent further says that the reason why this verification is not made by defendant is that it is a corporation; that the grounds of his belief as to all matters not therein stated upon his knowledge are as follows: Information obtained from the books and records of the said Board of Education and from statements made to him by certain officers or agents of the said Board.

Sworn to before me, this.....

day of.....19..... .....

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IN THE
UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF NEW YORK

CIVIL NO. 73 Civ. 1775

CLAUDE L. HUNTLEY, JR.,

PLAINTIFF

-vs-

COMMUNITY SCHOOL BOARD DISTRICT #14
and WILLIAM A. ROGERS, in his capacity
as Community Superintendent of District
#14

DEFENDANTS

NOTICE OF MOTION FOR LEAVE TO
ADD PARTY DEFENDANTS AND TO
AMEND THE COMPLAINT ACCORDINGLY

TO: The Office of the Corporation Counsel
City of New York - Adrian P. Burke, Esq.
Municipal Building - 16th Floor
New York, New York 10007
ATTENTION: Elliot Hoffman, Esq.
Assistant Corporation Counsel

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NOTICE is hereby given, pursuant to Rules 15 and 21 of the Federal Rules of Civil Procedure, that the attached Motion for Leave to Add Party Defendants and to Amend the Complaint, accordingly, will be brought on for hearing before the Honorable Jack B. Weinstein, United States District Judge for the Eastern District of New York on the 1st. day of March, 1974, at 10:00 in the forenoon, on the sixth floor at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York.

Respectfully submitted,

THOMAS HOFFMAN, ESQ.
200 West 57th Street
Suite #605
New York, New York 10019
(212) 581-1180

NATHANIEL R. JONES
JAMES I. MEYERSON
N.A.A.C.P. - 1790 Broadway
NEW YORK, NEW YORK 10019
(212) 245-2100

Attorneys for Plaintiff

BY: _____

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IN THE
UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF NEW YORK

CIVIL NO. 73 Civ. 1775

CLAUDE L. HUNTLEY, JR.,

PLAINTIFF

-vs-

COMMUNITY SCHOOL BOARD DISTRICT #14 and WILLIAM A. ROGERS, in his official capacity as Community Superintendent of District #14

DEFENDANTS

MOTION FOR LEAVE TO ADD PARTY DEFENDANTS AND TO AMEND THE COMPLAINT ACCORDINGLY

Plaintiff, CLAUDE L HUNTLEY, JR., by and through his attorneys, moves this Honorable Court, pursuant to Rules 15 and 21 of the Federal Rules of Civil Procedure, for Leave to Add Party Defendants and to Amend the Complaint accordingly, and in support thereof states:

1. This is a proceeding for a declaratory judgment, declaring the Plaintiff's termination from his position as Principal of Intermediate School #33, without a fair hearing, unconstutional in violation of the due process clause of the Fifth Amendment to the United States Constitution and the due process and equal protection clauses of the Fourteenth Amendment to the United States; and for preliminary and permanent injunctive

relief, restraining the Defendants from terminating the Plaintiff from his position as principal of Intermediate Scholl #33 without first affording to him a fair hearing comporting with due process standards.

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 1331 and 1343 (3) and (4) in conjunction with 42 U.S.C. Section 1983, this being an action seeking redress for the violation and deprivation of the Plaintiff's constitutional and civil rights.

3. On June 5, 1973, the Defendant Community School Board of Brooklyn, New York Community School District #14 terminated the Plaintiff from his position as principal of Intermediate School #33 in said District.

4. Prior to said action, the Plaintiff never received formal notice of the charges made by the Defendant Community Superintendent of Brooklyn, New York School District #14, the charges having been preferred against the Plaintiff by the Defendant Superintendent, in writing, to the Defendant Community School Board on June 1, 1973. See: Attachment "A" to the Complaint herein.

5. Prior to his termination from his position as principal of Intermediate School #33 in Brooklyn, New York School District #14, the Plaintiff was not accorded a hearing whereat he was confronted by his accusers and presented with the objective evidence on which the charges were preferred by the Defendant Superintendent and the action taken against him by the Defendant Community School Board. Moreover, prior to his termination from his position as principal of Intermediate School #33 in Brooklyn, New York School District #14, the Plaintiff was not accorded a hearing whereat he could be represented by counsel, cross-examine his accusers and/or present evidence on his own behalf.

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6. Believing that his termination was arbitrary, capricious and racially discriminatory and without appropriate due process, the Plaintiff brought this action to redress the deprivation of the alleged violation his constitutional rights.

7. The Plaintiff sued William A. Rogers in his official capacity as Superintendent of Brooklyn, New York Community School District #14. In that position he is charged with the responsibility of administering the operation of Brooklyn, New York Community School District #14.

8. In addition, the Plaintiff sued the Community School Board of Brooklyn, New York Community School District #14, a body corporate, established pursuant to the laws of the State of New York and charged thereunder with the responsibility for the operation of Brooklyn, New York Community School District #14.

9. Plaintiff believes that the Defendant Community School Board is a "person" within the meaning of 42 U.S.C. §1983, one of the statutes pursuant to which the jurisdiction of this Court is invoked.

10. However, in view of the affirmative defense raised by the Defendants in this regard, Plaintiff seeks leave from this Court to add as party Defendants each of the individual members of the Defendant Community School Board in their official capacities. Collectively, they comprise the entity referred to as the Community School Board and they are responsible for the operation of Brooklyn, New York Community School District #14.

11. Their addition to this action will not prejudice the Defendants heretofore named or otherwise cause any delay or undue burden to the Court or attorneys. For that matter, it is believed that the attorney who is representing the original named Defendants will represent those persons whom the Plaintiff desires to add herein, if such leave is granted.

12. The cause of action, the evidence and the issues of law will not be expanded or otherwise altered by the addition of the proposed Defendants; their presence will place the case and controversy in proper perspective and will allow the Court to afford relief should the Plaintiff prevail herein on the substantive issues.

WHEREFORE, Plaintiff respectfully prays that his Motion for Leave to Add Mr. Joseph M. Bonomo, Brother Robert F. Lally, Mr. Raymond Mygalski, Mr. Thomas Strohmenger, Rabbi Leopold Lefkowitz, Ms. Louise Rivera, Mr. Peter Dellaiacono, Mr. Angel L. Reyes, and Mr. Leroy O. Fredericks, in their official capacities as the members of the Community School Board of Brooklyn, New York Community School District #14, as party Defendants to this action be granted; and that he be permitted to amend his complaint accordingly.

Respectfully submitted,

THOMAS HOFFMAN, ESQ.
200 West 57th Street
Suite #605
New York, New York 10019
(212) 581-1180

NATHANIEL R. JONES
JAMES I. MEYERSON
N.A.A.C.P. - 1790 Broadway
New York, New York 10019
(212) 245-2100

Attorneys for Plaintiff

BY:_____

IN THE
UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF NEW YORK

CIVIL NO. 73 Civ. 1775

CLAUDE L. HUNTLEY, JR.,

PLAINTIFF

-vs-

COMMUNITY SCHOOL BOARD DISTRICT #14 and WILLIAM A. ROGERS, in his capacity as Community Superintendent of District #14

DEFENDANTS

A F F I D A V I T

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

JAMES I. MEYERSON, being first duly sworn, deposes and says:

1. I am one of the attorneys for the Plaintiff, above-named.

2. I have prepared the Motion herein.

3. This is a proceeding for a declaratory judgment, declaring the Plaintiff's termination from his position as principal of Intermediate School #33, without a fair hearing, unconstitutional in violation of the due process clause of the Fifth Amendment to the United States Constitution and the due process and equal protection clauses of the Fourteenth Amendment to the United States; and for preliminary and permanent injunctive relief,

restraining the Defendants from terminating the Plaintiff from his position as principal of Intermediate School #33 without first affording to him a fair hearing comporting with due process standards.

4. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 1331 and 1343 (3) and (4) in conjunction with 42 U.S.C. Section 1983, this being an action seeking redress for the violation and deprivation of the Plaintiff's constitutional and civil rights.

5. On June 5, 1973, the Defendant Community School Board of Brooklyn, New York Community School District #14 terminated the Plaintiff from his position as principal of Intermediate School #33 in said District.

6. Prior to said action, the Plaintiff never received formal notice of the charges made by the Defendant Community Superintendent of Brooklyn, New York School District #14, the charges having been preferred against the Plaintiff by the Defendant Superintendent, in writing, to the Defendant Community School Board on June 1, 1973. See: Attachment "A" to the Complaint herein.

7. Prior to his termination from his position as principal of Intermediate School #33 in Brooklyn, New York School District #14, the Plaintiff was not accorded a hearing whereat he was confronted by his accusers and presented with the objective evidence on which the charges were preferred by the Defendant Superintendent and the action taken against him by the Defendant Community School Board. Moreover, prior to his termination from his position as principal of Intermediate School #33 in Brooklyn, New York School District #14, the Plaintiff was not accorded a hearing whereat he could be represented by counsel, corss-examine his accuser and/or present evidence on his own behalf.

8. Believing that his termination was arbitrary, capricious and racially discriminatory and without appropriate due process, the Plaintiff brought this action to redress the deprivation or the alleged violation of his constitutional rights.

9. The Plaintiff sued William A. Rogers in his official capacity as Superintendent of Brooklyn, New York Community School District #14. In that position he is charged with the responsibility of administering the operation of Brooklyn, New York Community School District #14.

10. In addition, the Plaintiff sued the Community School Board of Brooklyn, New York Community School District #14, a body corporate, established pursuant to the laws of the State of New York and charged thereunder with the responsibility for the operation of Brooklyn, New York Community School District #14.

11. I believe that the Defendant Community School Board is a "person" within the meaning of 42 U.S.C. §1983, one of the statutes prusuant to which the jurisdiction of this Court is invoked (See: Argument III in Plaintiff's Memorandum in Support of Plaintiff's Motion for Summary Judgment).

12. However, in view of the affirmative defense raised by the Defendants in this regard, Plaintiff, by and through his attorneys, seeks leave from this Court to add as party Defendants each of the individual members of the Defendant Community School Board in their official capacities, to wit: Mr. Joseph M. Bonomo, Brother Robert F. Lally, Mr. Raymond Mygalski, Mr. Thomas Strohmenger, Rabbi Leopold Lefkowitz, Ms. Louise Rivera, Mr. Peter Dellaiacono, Mr. Angel L. Reyes, and Mr. Leroy O. Fredericks, Collectively, they comprise the entity referred to as the Community School Board and they are responsible for the operation of Brooklyn, New York Community School District #14.

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13. Their addition to this action will not prejudice the Defendants heretofore named or otherwise cause any delay or undue burden to the Court or attorneys. For that matter, it is believed that the attorney who is representing the originally named Defendants will represent those persons whom the Plaintiff desires to add herein, if such leave is granted.

14. The cause of action, the evidence and the issues of law will not be expanded or otherwise altered by the addition of the proposed Defendants; their presence will place the case and controversy in proper prospective and will allow the Court to afford relief should the Plaintiff prevail herein on the substantive issues.

15. Accordingly, I believe the Motion herein is justly and reasonably made and should be granted.

James I. Meyerson

JAMES I. MEYERSON

Sworn to and subscribed before
me this 17th day of February, 1974.

T. Hoffman

NOTARY PUBLIC

THOMAS HOFFMAN
NOTARY PUBLIC, STATE OF NEW YORK
No. 31-0931965
Qualified in New York County
Commission Expires April 6, 1974

My Commission Expires: _____

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IN THE
UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF NEW YORK

CIVIL NO. 73 Civ. 1775

CLAUDE L. HUNTLEY, JR.

PLAINTIFF

-vs-

COMMUNITY SCHOOL BOARD OF BROOKLYN, NEW YORK COMMUNITY SCHOOL DISTRICT #14, a body corporate, WILLIAM A. ROGERS, in his official capacity as Superintendent of Brooklyn, New York Community School District #14, MR. JOSEPH M. BONOMO, BROTHER ROBERT F. LALLY, MR. RAYMOND MYGALSKI, MR. THOMAS STROHMENGER, RABBI LEOPOLD LEFKOWITZ, MS. LOUISE RIVERA, MR. PERTER DELLAICONO, MR. LEROY O. FREDERICKS, in their official capacities as the members of the Community School Board of Brooklyn, New York School District #14

DEFENDANTS

AMENDED COMPLAINT

INTRODUCTION

1. This is a proceeding for a preliminary and permanent injunction to restrain Defendants and their agents from terminating Plaintiff from his position as principal of I.S. 33 without affording Plaintiff a fair hearing comporting with due process requirements and for a declaratory judgment declaring Plaintiff's termination without a fair hearing unconstitutional as being violative of the due process clauses of the Fifth Amendment and the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States of America.

JURISDICTION

2. The court has jurisdiction over this action pursuant to 28 U.S.C. Section 1331 and Section 1343 sub-3 and 4 as hereinafter more fully appears and 42 U.S.C. Section 1983. This is an action seeking redress for the deprivation of the Plaintiff's constitutional and civil rights.

3. This is an action in equity, authorized by 42 U.S.C. Sections 1981 and 1983, and 28 U.S.C. Sections 2201 and 2202. The rights to be secured are rights guaranteed by the due process clause of the Fifth Amendment and the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States of America.

PARTIES

4. Plaintiff Huntley is a Black citizen of the United States and a resident of the State of New York, County of Nassau. On or about the 22nd day of July, 1970, Plaintiff Huntley was appointed principal of I.S. 33, an Intermediate school operated by Defendant Community School Board.

5. Defendant Community School Board of Brooklyn, New York School District #14 (hereinafter referred to as "CSB") is a body corporate, created pursuant to Section 2590 et seq. of the Educational Law and chargeable under the laws of the State of New York with the control and operation of the intermediate and junior high schools within District #14, including I.S. #33 which is located and situated in Brooklyn, New York Community School District #14.

5. Defendant William Rogers is the Superintendent of Brooklyn, New York Community School District #14 and is chargeable with the duties of and administrating the operation of the District and carrying out the policies of the CSB.

7. Defendants Joseph M. Bonomo, Brother Robert F. Lally, Mr. Raymond Mygalski, Mr. Thomas Strohmenger, Rabbi Leopold Lefkowitz, Ms. Louise Rivera, Mr. Peter Dellaiacono, Mr. Angel L. Reyes and Mr. Leroy O. Fredericks are members of the Community School Board of Brooklyn, New York School District #14. Collectively, they comprise the Community School Board of Brooklyn, New York School District #14 and they are responsible for the operation of Brooklyn, New York Community School District #14.

ALLEGATIONS

8. On May 24, 1973 the CSB voted in executive session to terminate Plaintiff Huntley as principal of I.S. 33.

9. On May 25, 1973 Plaintiff Huntley filed a grievance with the Chancellor of the Board of Education alleging that his termination was illegal because it was taken at an Executive Session rather than at a public meeting.

10. On May 30, 1973 the Chancellor of Education upheld Plaintiff's grievance and found that Plaintiff Huntley's termination was illegal since the vote on his removal was held in a Executive Session rather than in a public session.

11. On June 1, 1973 Defendant Rogers wrote a letter (attached hereto and marked Exhibit "A") to the Defendant CSB members which included several allegations as to Plaintiff's "insufficiencies."

12. On June 5, 1973 the Defendant CSB held a public meeting, solely for the purpose of voting on the termination of Plaintiff Huntley, wherein the letter of allegation written by Defendant Rogers (See:Exhibit "A") was made public as constituting the basis for requiring the termination of Plaintiff Huntley.

13. On June 5, 1973 the CSB voted at a public meeting to terminate Plaintiff Huntley's services. Plaintiff Huntley never received a copy of Defendant Roger's letter (See: Exhibit "A")

nor was he given a fair opportunity to confront his accusers, to present his position, explanation and evidence or to refute the charges lodged against him.

14. Plaintiff made numerous requests for a hearing to refute the charges made against him but was informed by the Defendants and their agents that he had no right to a hearing.

15. The Parents Association of I.S. 33 initiated a grievance to overturn Mr. Huntley's termination.

16. On October 26, 1973 the Board of Education of the City of New York upheld Defendant CSB's decision to terminate Plaintiff Huntley.

17. The action by defendants was arbitrary, capricious and racially discriminating.

18. The reason that the Defendants terminated Plaintiff was not based on any objective criteria but was based on the fact that Plaintiff refused to abide by the racially discriminatory policies of Defendants in maintaining a segregated educational school system which was not responsive to the needs of the minority students who constitute a majority of the district.

19. The actions of the Defendants seriously affected and will continue to affect Plaintiff's reputation as a school administrator and thereby will deprive and seriously impair his future employment as a school administrator. The action of Defendants capriciously, arbitrarily and discriminatorily interferred with his reasonable expectancy of his continued employment as the principal of I.S. 33.

20. Defendants' procedure in terminating Plaintiff did not comport with basic due process requirements. Plaintiff has no adequate remedy at law, and Defendants will continue to cause Plaintiff irreparable harm, unless enjoined by the Court.

21. For each and all of the foregoing reasons, the actions complained of an the law challenged herein violate the Plaintiff's rights under the Civil Rights Acts of 1866 and 1871 (42 U.S.C. §§ 1981 and 1983), the Due Process Clause of the Fifth Amendment and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiff prays that this Court:

1. Enter a preliminary injunction ordering the Defendants to reinstate Plaintiff with retroactive pay and all amenities and increments attendant thereto until the final determination of this cause.

2. Enter an order declaring the action to Defendants to be unconstitutional of the Due Process and Equal Protection Clauses of the Fifth and Fourteenth Amendments to the United States Constitution.

3. Enter an order declaring that the Defendants actions were arbitrary, capricious and racially discriminatory in violation of Plaintiff's rights afforded to him under the Fourteenth Amendment to the United States Constitution (42 U.S.C., Section 1981).

4. Grant Plaintiff his costs and attorneys fees in this action.

5. Grant Plaintiff such other and further relief as this Court may determine just and equitable.

Respectfully submitted,

THOMAS HOFFMAN, ESQ.
200 West 57th Street, Suite 605
New York, New York 10019
(212) 581-1180

JAMES I. MEYERSON
N.A.A.C.P.
1790 Broadway
New York, New York 10019
(212) 245-2100

Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

JAMES I. MEYERSON, one of the attorneys for the Plaintiff, certifies that on the 19th day of February, 1974, I did serve a copy of the Foregoing Motion to Add Party Defendants and To Amend the Complaint Accordingly and the Affidavit in Support thereof, upon the attorney for the Defendants as follows: Office of the Corporation Counsel, City of New York, Municipal Building, 16th Floor, New York, New York 10007, Attention: Elliot Hoffman, Esq., Assistant Corporation Counsel.

JAMES I. MEYERSON
N.A.A.C.P. - 1790 Broadway
New York, New York 10019
(212) 245-2100

Attorney for Plaintiff

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

CLAUDE L. HUNTLEY, JR.,

Plaintiff,

-against-

INTERROGATORIES

COMMUNITY SCHOOL BOARD DISTRICT 14 and WILLIAM A. ROCHES in his official capacity as Community Superintendent of District 14,

73 CIV. 1775

J. WEINSTEIN

Defendants.

TO: JAMES I. MEYERSON
N.A.A.C.P. - 1790 Broadway
New York, N.Y. 10019

THOMAS HOFFMAN
200 W. 57 St.
New York, N.Y. 10019

PLEASE TAKE NOTICE that pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendants request that the following interrogatories be answered by the plaintiff, Claude Huntley, separately and fully, in writing and under oath within thirty (30) days after the service of these interrogatories:

1) State whether plaintiff's claim concerning the reasons for the termination of his services, as set forth in paragraph numbered "17" of the complaint, is based on any documents?

2) If the answer to the preceding question is "Yes", include copies of such document(s).

3) Is plaintiff's claim as set forth in paragraph numbered "17" of the complaint based on any statements made by any of the defendants, their officers, agents or employees?

4) If the answer to the preceding question is "Yes",

A) identify the person or persons who made the statement(s),

B) state the date, time and place such statement(s) were made,

C) the contents of such statement(s) as presently recalled, and

D) the names of any persons present when the statement(s) were made.

5) State the basis for the allegations in paragraph numbered "17" of the complaint, if the basis for these allegations is not set forth in the answers to the preceding interrogatories.

6) Who replaced plaintiff as principal of I.S.33, and what is the race of this person?

Dated: May 28, 1974

ADRIAN P. BURKE
Corporation Counsel
Attorney for Defendants
Office and P.O. Address:
Municipal Building
New York, N.Y. 10007

By _____
DEBORAH ROTHMAN
Assistant Corporation Counsel

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

CLAUDE L. HUNTLEY, JR.,

Plaintiff,

-against-

COMMUNITY SCHOOL BOARD DISTRICT 14 and WILLIAM A. ROGERS in his official capacity as Community Superintendent of District 14,

Defendants.

REQUEST FOR ADMISSION OF FACTS

73 CIV. 1775

J. WEINSTEIN

TO: JAMES I. MEYERSON
N.A.A.C.P. - 1790 Broadway
New York, N.Y. 10019

THOMAS HOFFMAN
200 W. 57th St.
New York, N.Y. 10019

Attorneys for Plaintiff

PLEASE TAKE NOTICE that pursuant to Rule 36 of the Federal Rules of Civil Procedure, Defendants hereby request that the plaintiff, Claude Huntley, within thirty days after service of this request, admit the truth of the following facts:

1) That plaintiff was replaced at I.S. 33 by Mr. Lyman Pretty, and that the said Mr. Pretty is of the same race as the plaintiff.

2) That each of the following persons is of the same race as the plaintiff, and that each of these persons was hired in a supervisory capacity by Community School District 14:

A) Henry Whitey
B) Buena Ventura

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C) Francis Hain
D) Emerald Segure
E) Donald Ashman

3) That the following persons are of Hispanic descent, and were appointed to supervisory positions by Community School District 14:

a) Brunhilde Hernandez
b) Mario Cistero
c) Carlos Lede
d) Aurea Molina
e) Maria Ramos
f) Mario Lemagne
g) Jose Garcia

4) That the letter dated March 6, 1973, attached hereto as Exhibit "A", was authored and released by the plaintiff.

5) That the letter accurately describes the situation at I.S. 33 as of March 6, 1973.

6) That the letter was sent to the parents of the students at I.S. 33.

Dated: May 28, 1974

ADRIAN P. BURKE
Corporation Counsel
Attorney for Defendants
Office and P.O. Address:
Municipal Building
New York, N.Y. 10007

By _____
DEBORAH ROTHLEIN
Assistant Corporation Counsel

71

PARK HOLMES INTERMEDIATE SCHOOL "33
70 Templeton Avenue, Brooklyn, N.Y. 11206
Claude L. Huntley, Principal

March 6, 1973

Dear Parents:

This is a letter informing you of the EMERGENCY SITUATION occurring in our school. We have had the following incidents:

1. Too many false fire alarms
2. Too many fires in various sections of our school.
3. Too many children roaming the halls.
4. Too many fights in school and after school, especially among girls.
5. Some teachers failing to do their jobs in the classrooms.
6. Too much disrespect for authority by the students.
7. Constant use of vile, obscene and profane language by the students.

With the above in mind, I am asking for your help in improving these conditions. I need Parent Volunteers in the school immediately. You are needed to help insure the security and safety of the students (your children). You are also needed to help patrol the corridors on all floors, visit classes to observe the teachers performing in the classroom, door patrol, and basement duty.

Your assistance and cooperation is in demand now. I urge you to come in and help to make sure that your children will get "quality education." You can no longer depend on the old axiom."let George do it." You must act now because tomorrow may be too late. There may not be a tomorrow for them. Their tomorrow is today. If they don't get an education now, they will be lost for the future.

AGAIN I URGE YOU TO COME INTO THE SCHOOL AND HELP.

Very truly yours,

Claude L. Huntley

CLH:lm

Claude L. Huntley, Jr.
Principal

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

CLAUDE L. HUNTLEY, JR.,

Plaintiff,

-against-

COMMUNITY SCHOOL BOARD DISTRICT 14 and WILLIAM ROGERS in his official capacity as Community Superintendent of District 14,

Defendants.

ADMISSIONS

73 CIV. 1775

J. WEINSTEIN

1) That plaintiff was replaced at I.S. 33 by Mr. Lyman Pretty, and that the said Mr. Pretty is of the same race as the plaintiff.

Admitted.

2) That each of the following persons is of the same race as the plaintiff, and that each of these persons was hired in a supervisory capacity by Community School District 14:

A) Henry Whitey
B) Buena Ventura
C) Francis Hain
D) Emerald Segure
E) Donald Ashman

Upon information and belief Henry Whitey, Buena Ventura and Donald Ashman were hired in a supervisory capacity by Community School District 14. Plaintiff has no knowledge regarding Francis Hain or Emerald Segure.

3) That the following persons are of Hispanic descent, and were appointed to supervisory positions by Community School District 14:

a) Brunhilde Hernandez
b) Mario Cistero
c) Carlos Lole
d) Aurea Molina
e) Maria Ramos
f) Mario Lemagne
g) Jose Garcia

Upon information and belief a, b, d, e, f and g are of Hispanic descent and were appointed to supervisory positions by Community School District 14. Plaintiff has no knowledge regarding c.

4. That the letter dated March 6, 1973, attached hereto as Exhibit "A", was authored and released by the plaintiff.

Admitted.

5. That the letter accurately describes the situation at I.S. 33 as of March 6, 1973.

The letter dated March 6, 1973 must be taken in the context of the social upheaval which was ongoing during that period of time. Plaintiff does not concede that the situation at I.S. 31 was any worse than the situation at other schools. The letter of March 6, 1973 must also be considered in the context of the placement and the concentration of low-income students at I.S. 33. The contents of the letter dated March 6, 1973, must also be considered in light of an attempt to obtain increased parental involvement in the school.

6. That the letter was sent to the parents of the students at I.S. 33.

Admitted.

Dated: New York, New York
August 6, 1974

Thomas Hoffman
200 W. 57 St., N.Y., N.Y. 10019

James I. Meyerson
1700 Broadway, N.Y., N.Y. 10019

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

CLAUDE L. HUNTLEY, JR.,	
Plaintiff,	: ANSWER TO INTERROGATORIES
-against-	:
COMMUNITY SCHOOL BOARD DISTRICT 14 and WILLIAM A. ROGERS in his official capacity as Community Superintendent of District 14,	: 73 CIV 1775 : J. WEINSTEIN
Defendants.	:

1. State whether plaintiff's claim concerning the reasons for the termination of his services, as set forth in paragraph numbered "17" of the complaint is based on any documents?

Yes.

2. If the answer to the preceding question is "Yes," include copies of such document(s).

See:

a. Exhibit "A" of complaint;

b. documents requested but not received, in letter dated May 21, 1974 to Deborah Rothman, Assistant Corporation Counsel from James I. Meyerson, Assistant General Counsel, N.A.A.C.P.;

c. the individual rating report of Claude Huntley already in the possession of defendants and the statistical racial breakdown of the school register (students and faculty) which is also in the possession of the defendants.

d. Plaintiff reserves the right to amend this answer as he

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becomes aware of additional documents relating to the allegations in paragraph 17 of the complaint.

3. Is plaintiff's claim as set forth in paragraph numbered "17" of the complaint based on any statements made by any of the defendants, their officers, agents or employees?

Yes.

4. If the answer to the preceding question is "Yes,"

A) identify the person or persons who made the statement(s),

B) state the date, time and place such statement(s) were made,

C) The contents of such statement(s) as presently recalled, and

D) the names of any persons present when the statement(s) were made.

A, B, C & D - See affidavit of Leroy Fredericks previously submitted in support of plaintiff's motion for summary judgment. In early March, 1973, Mario DeStephano, U.F.T., District 14 Chapter Chairman, stated to several teachers the following: "We are going to get Huntley and that _____ Straker too." Present when the above statement was made were Marvin Polonsky, Mr. Brodsky, Mr. Meltzer, Mr. Mattacotta and Mr. Stein.

5. State the basis for the allegations in paragraph numbered "17" of the complaint, if the basis for these allegations is not set forth in the answers to the preceding interrogatories.

See preceding answers. Additionally, the absence of documents reflecting objective standards, criteria and procedures for the evaluation of administrative personnel.

6. Who replaced plaintiff as principal of I.S. 33, and what is the race of this person?

Upon information and belief Mr. Linon Pretty replaced plaintiff as Principal of I.S. 33.

Dated: New York, New York
August 6, 1974

Thomas Hoffman
200 West 57 Street
New York, N.Y. 10019
(212) 581-1160

James I. Meyerson
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New York, N.Y. 10019
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Attorneys for Plaintiff

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

CLAUDE L. HUNTLEY, JR., Plaintiff, -against- COMMUNITY SCHOOL BOARD DISTRICT 14 and WILLIAM A. ROGERS in his official capacity as Community Superintendent of District 14, Defendants.	:	ANSWER TO INTERROGATORIES 73 CIV. 1775 J. WEINSTEIN

1. State whether plaintiff's claim concerning the reasons for the termination of his services, as set forth in paragraph numbered "17" of the complaint is based on any documents?

Yes.

2. If the answer to the preceding question is "Yes," include copies of such document(s).

See:

a. Exhibit "A" of complaint;

b. documents requested but not received, in letter dated May 21, 1974 to Deborah Rothman, Assistant Corporation Counsel from James I. Meyerson, Assistant General Counsel, N.A.A.C.P.;

c. the individual rating report of Claude Huntley already in the possession of defendants and the statistical racial breakdown of the school register (students and faculty) which is also in the possession of the defendants.

d. Plaintiff reserves the right to amend this answer as he

become s aware of additional documents relating to the allegations in paragraph 17 of the complaint.

3. Is plaintiff's claim as set forth in paragraph numbered "17" of the complaint based on any statements made by any of the defendants, their officers, agents or employees?

Yes.

4. If the answer to the preceding question is "Yes,"

A) identify the person or persons who made the statement(s),

B) state the date, time and place such statement(s) were made,

C) the contents of such statement(s) as presently recalled, and

D) the names of any persons present when the statement(s) were made.

A, B, C & D - See affidavit of Leroy Fredericks previously submitted in support of plaintiff's motion for summary judgment. In early March, 1973, Mario DeStephano, U.F.T., District 14 Chapter Chairman, stated to several teachers the following: "We are going to get Huntley and that _____ Straker too." Present when the above statement was made were Marvin Polonsky, Mr. Brodsky, Mr. Meltzer, Mr. Mattacotta and Mr. Stein.

5. State the basis for the allegations in paragraph numbered "17" of the complaint, if the basis for these allegations is not set forth in the answers to the preceding interrogatories.

6. Who replaced plaintiff as principal of I.S. 33, and what is the race of this person?

Upon information and belief Mr. Linon Pretty replaced plaintiff as Principal of I.S. 33.

Dated: New York, New York

Thomas Hoffman
Attorney for Plaintiff
200 West 57 Street
New York, New York 10019

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

CLAUDE L. HUNTLEY, JR.,	:	
Plaintiff,	:	
-against-	:	ADMISSIONS
COMMUNITY SCHOOL BOARD DISTRICT 14 and WILLIAM ROGERS in his official capacity as Community Superintendent of District 14,	:	73 CIV. 1775
	:	J. WEINSTEIN
Defendants.	:	

1) That plaintiff was replaced at I. S. 33 by Mr. Lyman Pretty, and that the said Mr. Pretty is of the same race as the plaintiff.

Admitted.

2) That each of the following persons is of the same race as the plaintiff, and that each of these persons was hired in a supervisory capacity by Community School District 14:

A) Henry Whitey
B) Buena Ventura
C) Francis Hain
D) Emerald Segure
E) Donald Ashman

Upon information and belief Henry Whitey, Buena Ventura and Donald Ashman were hired in a supervisory capacity by Community School District 14. Plaintiff has no knowledge regarding Francis Hain or Emerald Segure.

3) That the following persons are of Hispanic descent, and were appointed to supervisory positions by Community School District 14:

a) Brunhilde Hernandez
b) Mario Cistero
c) Carlos Lede
d) Aurea Molina
e) Maria Ramos
f) Mario Lemagne
g) Jose Garcia

Upon information and belief a, b, d, e, f and g are of Hispanic descent and were appointed to supervisory positions by Community School District 14. Plaintiff has no knowledge regarding c.

4. That the letter dated March 6, 1973, attached hereto as Exhibit "A", was authored and released by the plaintiff.

Admitted.

5. That the letter accurately describes the situation at I.S. 33 as of March 6, 1973.

The letter dated March 6, 1973 must be taken in the context of the social upheaval which was ongoing during that period of time. Plaintiff does not concede that the situation at I.S. 31 was any worse than the situation at other schools. The letter of March 6, 1973 must also be considered in the context of the placement and the concentration of low-income students at I.S. 33. The contents of the letter dated March 6, 1973, must also be considered in light of an attempt to obtain increased parental involvement in the school.

6. That the letter was sent to the parents of the students at I.S. 33.

Admitted.

Dated: New York, New York

Thomas Hoffman
Attorney for Plaintiff
200 West 57 Street
New York, New York 10019

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CLAUDE L. HUNTLEY, JR.,

Plaintiff,

- against -

73 C 1775

COMMUNITY SCHOOL BOARD OF BROOKLYN, NEW YORK, DISTRICT NO. 14 and WILLIAM R. ROGERS in his official capacity as Community Superintendent of District No. 14,

Defendants.

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MEMORANDUM and ORDER

Appearances:

JAMES I. MYERSON, Esq., Assistant General Counsel,
N.A.A.C.P. Special Contribution Fund,
1790 Broadway, New York, New York 10019

and

THOMAS HOFFMAN, Esq.
200 West 57th Street, New York, New York 10019
Attorneys for Plaintiff

W. BERNARD RICHLAND, Esq.
Corporation Counsel of New York City
By: DEBORAH ROTHMAN
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Municipal Building, New York, N.Y. 10007
Attorneys for Defendants

WEINSTEIN, U.S.D.J.

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Plaintiff seeks an order directing his reinstatement as principal of Intermediate School 33 in New York City's School District 14. He alleges that he was terminated arbitrarily, without a hearing, and because he was a black person, in violation of his rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution. Defendants, the Superintendent and members of the local Community School Board, contend that no hearing was granted because, as a non-tenured administrator, plaintiff was not entitled to one, and that termination was based solely on dissatisfaction with plaintiff's work, and was without racial motivation.

Even in the muted atmosphere of a federal courtroom, years after the events, it is apparent that the circumstances surrounding plaintiff's dismissal involved heated emotions; conflicts among strong individuals with firmly held opposing views; turmoil as reflected in fires, boycotts, threats and counterthreats and charges of racial prejudice and academic plots; and fear for the welfare and safety of the students and faculty. But the task of this court is not one of assessing blame, of tracing disputes to their genesis, or

of suggesting how forebearance and clearer judgment by those involved might have avoided this unfortunate denouement. It is, rather, to answer two narrow issues of fact and law. First, was the plaintiff entitled to a hearing? Second, did the Superintendent and the School Board act out of racial malice -- i.e., would a white principal have been terminated under the circumstances the authorities then believed to exist?

The court is satisfied that the issues were well and fairly tried by able counsel on both sides. While there was considerable disagreement among witnesses for the plaintiff and for the defendants, in most cases the discrepancies were due to the difference in viewpoint in observing the original events, in attributing motives to the actors, and in recalling through memories colored by partisanship.

All those who testified seemed genuinely interested in the welfare of the children of I.S. 33, though they varied in their approaches. Those employed by the school system struck the court as competent professionals. The members of the School Board were dedicated laymen. The members of the public were genuinely interested in improving education.

The Law

A. Right to a Hearing

Plaintiff was an acting principal. Although he held a certificate from the state, he did not hold one from the city. He had not achieved tenure and was, therefore, under New York law, not entitled to a full hearing before being discharged, as were tenured officials. In Birnbaum v. Trussell, 371 F.2d 672, 677 (2d Cir. 1966) the court held "that public employees . . . have no absolute right to a hearing on discharge from public employment . . . ."

If, however, the termination " . . . permanently brands the person accused" id. at page 679, as a person with some moral lack rather than ordinary failure to measure up to the needs of the job then a hearing is required. While the law does not confine the concept of immorality to sexual debauchery, alcoholic indiscretion, possible drug sales, disloyalty, or race prejudice (ibid.), there must be some predicate for social ostracism or obloquy; where termination is based upon failure of an employee to do his job properly a hearing for a non-tenured employee is not required. See, e.g., Wisconsin v. Constantineau, 400 U.S. 433, 91 S.Ct. 507, 27 L. Ed.2d 515 (1971); Board of Regents v. Roth,

408 U.S. 564, 573, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972); Perry v. Sindermann, 408 U.S. 593, 92 S.Ct. 2694, 33 L.Ed.2d 570 (1972). As to the first cause of action, therefore, the plaintiff must establish by a preponderance of the evidence that failure to retain him constituted a slur against his good name, reputation, honor, or integrity.

B. Racial Discrimination

In order to prove racial discrimination in a civil rights action, the plaintiff must show by a preponderance of the evidence that the discharge occurred because he was a member of a minority group. McDonnell Douglas Corp. v. Green, 411 U.S. 792, 91 S.Ct. 1817 (1973). The reason given must be a "pretext" for racial discrimination. Ibid.; Watts v. Board of Curators, University of Missouri, 495 F.2d 384, 389 (8th Cir. 1974). If the reason for discharge was in fact the Board's belief that the plaintiff was not competent to properly perform his duties as principal of I.S. 33, the plaintiff cannot obtain a favorable judgment. United States v. Chesterfield County School Dist., S.C., 484 F.2d 701 (4th Cir. 1973); Cannady v. Person County Board of Education, 375 F.Supp. 689 (M.D.N.C. 1974). It is incumbent upon

plaintiff to show that a white person in his position, with his qualifications, and under the same conditions would have been retained.

The Facts

Obviously, racial problems were a factor in the dispute which gave rise to this litigation. The school, I.S. 33, is almost one hundred percent black and Hispanic. The district has a very large proportion of black and Hispanic students. The faculty at I.S. 33 is almost overwhelmingly white. Seven members of the local School Board are white, one is Hispanic and two are black persons.

At the time the plaintiff was appointed Acting Principal of I.S. 33, there were only two black supervisors in the district. His appointment was based upon an affirmative action program which resulted in his being brought in from outside the district in preference to others the then Superintendent thought more qualified. As part of this affirmative action program there are now fourteen black persons in supervisory capacities within this district -- including three principals.

The court takes judicial notice of the fact that there are racial tensions within the city and particularly within the schools. But not every dispute which has racial overtones involves a violation of constitutional rights. Whether the plaintiff has met his burden with respect to the two issues already described is the matter to which we now turn.

The Witnesses

Claude L. Huntley, the plaintiff, is a distinguished-looking person. He comes from what appears to be a stable family, living in Roosevelt, Long Island, New York. His wife attended all sessions and was supportive and he described his stable family life. He has had extensive educational training at the graduate and post-graduate levels. He has also had a long and satisfactory career as a supervisor and teacher in a very difficult and demanding school for problem children. He has obviously given a great deal of thought to the problem of educating minority children and has fixed ideas on how that education should proceed. Generally, the court was impressed by him as a credible witness whose recollection of some of the events was colored by the disappointment at having lost a position

in which he took great pride.

He attributed difficulties in the school to a cabal of teachers out to get him, to lack of adequate assistance from the Board and Superintendent, and to the usual difficulties of educating ghetto children. He testified that he made many improvements in curriculum, including institution of special programs for more advanced and for troublesome pupils. In addition, he took what he considered were appropriate steps to check the inordinate numbers of fires that plagued the building and to check unruly behavior. It was his conclusion that the troubles were ending when he was fired and that had his plans for reorganization been adopted the school would have improved even further.

Plaintiff's second witness, Elizabeth Karpf, struck the court as being a competent and warm-hearted teacher and guidance counsellor. She has had forty years of experience in the school system and takes her responsibilities to the students quite seriously. She is obviously a strong defender of the plaintiff; she sat near his other supporters in the courtroom and reacted visibly to witnesses for and against him. Her conclusion that the plaintiff was a "good and kind administrator" is accepted as an honest opinion.

James H. Miller, plaintiff's third witness, also had wide experience as a teacher in the New York City school system. He was brought into I.S. 33 at the request of the plaintiff and was Acting Chairman of the Music Department. He has had extensive graduate and post-graduate educational training and strikes the court as a dedicated and honest witness. He also is a strong supporter of the plaintiff. He shares, apparently, the plaintiff's ideology in connection with teaching of minority students and believed that Mr. Huntley appreciably improved the school by, among other means, improving students' image of themselves. As he put it, previously the school had operated under a form of "benevolent paternalism" and as a "plantation". His view is taken at face value as indicating a strong belief that Mr. Huntley was an effective administrator.

The fourth witness, Leroy Fredericks, is a member of the District 14 School Board. One of his duties was to act as liaison between the Board and Intermediate School 33. He is apparently a dedicated layman whose interest in education is based partly on the needs of his own family, but also on higher philosophical grounds that have induced him to attend Brooklyn College where he takes courses in education. While

acknowledging substantial problems in the school while Mr. Huntley was a principal, his testimony may be summarized as supporting Mr. Huntley. He voted against termination.

The next witness for the plaintiff, Caroline Hupe, is a teacher at St. John The Evangelist, who worked with a group of parents interested in improving I.S. 33. She assisted in bringing Mr. Huntley's record to their attention. She appeared to be a sincere person dedicated to better education for minority pupils. She obviously is a proponent of the plaintiff who believes that the plaintiff was doing a job that warranted his retention.

The next witness was Reverend Isaac Stokes, a minister from Bedford-Stuyvesant, whose children have attended and are attending I.S. 33. He struck the court as an honest witness, interested in the welfare of his children and, therefore, of the school they were attending. He was generally satisfied with Mr. Huntley's performance and thought that this was the community's evaluation. He thought that the main problem was the disciplining of teachers. It was his impression that Mr. Huntley had improved communication with the students and improved school environment. He did admit

that at times "everything became chaos" and that discipline is better under the successor of the plaintiff. He attributed this improvement at least in part to the fact that the teachers had stopped "sabotaging the program."

The final witness for the plaintiff in his direct case was John Steel, a teacher of reading and English in the New York school system for twelve years who has had extensive post-graduate education and has received recognition as a poet and playwright. He also was a strong supporter of Mr. Huntley. He obviously shares the plaintiff's views on proper methods of educating minority children and of the relations between principal and children in the intermediate school. He emphasized that the plaintiff identified with the children by such means as telling them "right on" or placing his "fist up in the air." He was favorably impressed by plaintiff's policy of keeping an open door policy for students, teachers and others. Like the plaintiff, he attributed a good deal of the difficulty to an attempt by the teachers to "get" Huntley. He and other plaintiff's witnesses thought that the plaintiff had taken appropriate and sound action to reduce fires and disruption by children in the halls and that the difficulties,

to the extent that they existed at all at the time Mr. Huntley was terminated, were due in the main to lack of cooperation by the teachers and by the Superintendent.

John J. O'Connor, the Custodian, was the first of defendant's witnesses. He authenticated logs indicating thirty-nine reported fires in I.S. 33 during the three years the plaintiff was principal compared to a total of thirteen in the five other junior high schools in the district. Defendants' Exhibit T. In the two years preceding and the one year following plaintiff's term no fires were reported in I.S. 33.

The next witness for the defendant was the present principal of I.S. 33, Leonard S. Pretty. He, like the plaintiff, is a black person. He appeared to be a responsible and dedicated educator with extensive post-graduate education and experience in administration and a strong and effective demeanor. He had worked in the Local School Board headquarters. He appeared to be supported by a number of the teachers from the school who visited the courtroom during the course of the proceedings and appeared to have a good relationship with them.

His pragmatism and good judgment was reflected on a number of occasions when he refused to be drawn into any adverse characterization of the plaintiff's term.

The suggestion on the cross-examination that Mr. Pretty was "passive" and amenable to the wishes of whites who controlled the school board seems untenable. Also unfounded was the suggestion on cross-examination of this witness and on direct examination of other witnesses that he was transferred into the principalship in order to avoid having a black in a policy-making position at school headquarters. The position of principal constituted a promotion with an increase in pay, more time off, and with a much greater policy-making function. Mr. Pretty is obviously a man of distinction with a will of his own. He struck the court, as in the case of other witnesses, as credible. Under his tenure there have been very substantial decreases in grievances brought by teachers, in requests to transfer out of the school by teachers and students, and, apparently, in disruptive behavior within the school. Fires have practically been eliminated. The court credits his testimony that this change was accomplished without any proportionate increase in assistance from the

Superintendent or School Board; the number of teachers and other aides is proportionately less now than it was under the prior principal, the plaintiff.

The next witness was William A. Rogers, the Superintendent of the School District 14. He, like the plaintiff, was only appointed in an "acting" capacity since he also lacked certification for the position he took. He has had extensive experience in administration and education. He struck the court as a generally honest and capable professional who, like the plaintiff, had his memory somewhat colored by the need to justify his position.

In considering Mr. Rogers' role it must be borne in mind that in his acting capacity he was himself subject to termination by the School Board and that he was under great pressure to show progress and to eliminate problems from the school district. The court credits his testimony that he gave more time to the supervision and guidance of the plaintiff than he did to all other principals in the school district combined and that he was constantly troubled by complaints from teachers that the plaintiff would not listen to their grievances or treat them properly under the

contract with United Federation of Teachers. He believed that there were an excessive number of fires and that the "tone of the school was poor during the plaintiff's principalship." His perception of the school, apparently honestly arrived at, was that the school was "out of control." He had discussed the problem with the School Board and with Mr. Fredericks on a number of occasions and had sought to give guidance to the principal. The court also credits his testimony that the request of teachers for transfer out of I.S. 33 were greater than for other schools in the district.

The next witness was Ralph T. Brande. He also was a distinguished teacher with extensive supervisory experience. He is now employed by District 22 as a Superintendent and was the Superintendent in District 14 until 1972. The court is impressed by this witness as being credible and honest, although it must take into account the fact that he did not recommend the original appointment of Mr. Huntley and must have felt some chagrin that the Board had rejected his nominee in favor of Mr.Huntley. Although he gave Mr. Huntley a satisfactory rating during his first year, he thought he "was not functioning well enough." He attributed this to lack of experience but indicated that had there been no improvement he would have

considered an unsatisfactory rating probable. He believed that Mr. Huntley was a poor choice for the job, who had been appointed as a result of community pressure for a black principal.

Thomas C. Str[illegible] was the defendants' fourth witness. He had been a l[illegible]dent while he was a member of the Board and voted to hi[illegible] Mr. Huntley. Despite an implied threat from a lawyer for the Association of Supervisors that he might be held in contempt of court and that this might interfere with his admission to the bar, he, like the rest of the Board, defended in court their right to retain Mr. Huntley. He testified that parents of children at I.S. 33 as well as teachers and Mr. Rogers had repeatedly complained of conditions at I.S. 33. He was particularly fearful that students might be hurt in the many fires and at reports that a group of students trapped by a locked door had to be released by firemen. It was his impression that problems "snowballed" beginning in September of 1972 and that things were "out of control" by May so that "the only recourse" was to "terminate." The Board, he said, had given Mr. Huntley more assistance than any other principal received. He did not want to terminate Mr. Huntley and did so only as a last

resort and with no racial considerations.

Brother Robert F. Lally, the President of the School Board, and himself an educator, testified that he had recommended Mr. Huntley because he thought him the most qualified applicant. There had, he said, been a gradual deterioration in I.S. 33 after the new principal took over. There were fires, attacks on teachers -- one reported he felt safer in Viet Nam than in the school -- and "general chaos." Teachers and students were requesting transfers and the Superintendent warned him that something had to be done. One Board member visiting the school had been knocked against the wall by children and was fearful. His action in voting to terminate, he said, was based upon his conclusion that education at the school was not acceptable under Mr. Huntley, who was not capable of administering the school. The plaintiff, he testified, received the same treatment as a white person would have received under the circumstances. Those with tenure were granted hearings before discharge; those without tenure were not afforded a hearing.

Arthur Brodsky, President of the I.S. 33 Local of the United Federation of Teachers also testified for the

defendant. He, too, struck the court as a credible witness. He noted "chaotic conditions," with children running uncontrolled through the halls and little education going on in the building. The teachers complained of fear for their physical safety and absenteeism was at a high rate. Mr. Huntley told him that "he was at war with the teachers" and that the union contract "did not apply at 33." He stated that conditions were better before Mr. Huntley arrived and after he left, and that the teachers had no problem working with a black principal.

At the request of the plaintiff, two witnesses were called by the court since, reportedly, they feared to testify as witnesses for a party. Dorothy Straker, a black Assistant Principal, who had a good reputation as administrator of the I.S. 33 annex, found the plaintiff accessible and cooperative. Her opinion of the plaintiff was good although she denied knowledge of what went on at the main building.

Buenventura Gibbs, a black Assistant Principal at I.S. 33 when the plaintiff was principal, described Mr. Huntley's curricular changes favorably. He did not think the school unsafe for teachers and thought Mr. Huntley had

improved student morale.

David Feldmesser, an Assistant Principal at the annex confirmed the testimony of Dorothy Straker. He was the last witness called by the defendants.

- Perceptions of the Board

The issue before us is not whether Mr. Huntley was in fact a good administrator, but whether the Board's perceptions of him were honestly arrived at without racial prejudice.

There is no doubt that there were many more fires in I.S. 33 than in any other school in the district. The situation did constitute a continuing danger. There is some doubt as to whether they remained at a high rate in the month immediately preceding the firing of the plaintiff, but, apparently, there was a good deal of talk about unreported fires. The perception of the Superintendent, Mr. Rogers, that the fires were continuing must be accepted as honestly arrived at even if it may have been due to misinformation.

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There was also excessive lack of discipline of the students and lack of control of them in the hallways and in other places. Whether this was continuing at the same rate in the month immediately preceding the dismissal is not clear. Again, the perception of Mr. Rogers must be accepted as accurate that these disruptions and lack of proper tone in educational work in the school were continuing.

The court must also credit the testimony of Mr. Rogers that the only reason he gave Mr. Huntley a satisfactory rating in 1971 was that he himself had only been supervising him for four months and he thought it was unfair to give any but a satisfactory rating although he felt that Mr. Huntley was not operating at a satisfactory professional level. He obviously shared the opinion of Brande, the prior Supervisor, that Huntley was, as a principal, "pretty close to the bottom."

The situation faced by the new superintendent, Rogers, was briefly this. He himself was a new man on the job who believed he had to show results. The main problems in the School District, apart from those inherent problems attributable to lack of money, poor reading scores, racial problems, poverty and the like, were focused at I.S. 33. A disproportionate

amount of his time was spent in supervising and meeting with Mr. Huntley, the plaintiff. There continued to be fires and lack of discipline which could at any time have resulted in serious injury or death and would have resulted in the possible destruction of his own career.

What is quite clear is that the relationship between Huntley and Rogers in the spring of 1972 reached a point where there was considerable hostility between them. Instead of attempting to work out his problems with the superintendent and with the school teachers, the plaintiff reacted by alleging racial persecution.

He had done this on at least one prior occasion when he complained about the fact that he was being underpaid as a principal. In his letter of March 25, 1972 to the Chancellor, he alleged that he was "the first BLACK PRINCIPAL and only one in District 14. I'm being discriminated against" by being underpaid. Yet, he admitted on the stand, that the pay scale he was getting was the one appropriate for an Acting Principal and applied to all Acting Principals in the city, and that his claim of discrimination was designed only "to get more money." P. 85.

In construing the evidence to determine the state of mind of members of the School Board and the Superintendent, three contemporary documents, of the 53 introduced, are critical.

By letter dated March 3, 1973, the plaintiff directly challenged Community Superintendent William Rogers. See Defendants' Exhibit C. He attributed his difficulties to a "cabal" whose desire was "to GET HUNTLEY AT ALL COSTS." He threatened that the Superintendent would "be involved in an incessant struggle to be remembered in our district." He suggested that the Superintendent was "not fully qualified" for his position and accused the teachers of "not performing," causing black, Hispanic and other children to become "educationally mutilated" and threatened to "sweep the slate clean" of the staff in order not to sacrifice the children "on the altar of racism." (Emphasis in original.) He indicated that his difficulties were "racially inspired" and accused the Superintendent of "recoiling at the thought of a BLACK MAN challenging the establishment." He accused the Superintendent of having "educational political debts to pay" and that he would "wade in my own blood if necessary, to defend my position at I.S. #33." He concluded by writing "You having laid the

gauntlet, then, I shall take it up as it is and establish my battle plans and strategy."

In addition, on March 6th the plaintiff issued a letter to all of the parents in the district informing them of an "EMERGENCY SITUATION" (Defendants' Exhibit A) and asking for volunteer parents to assist in the school. Among the problems he listed were:

1. Too many false fire alarms.
2. Too many fires in various sections of our school.
3. Too many children roaming the halls.
4. Too many fights in school and after school, especially among girls.
5. Some teachers failing to do their jobs in the classrooms.
6. Too much disrespect for authority by the students.
7. Constant use of vile, obscene and profane language by the students.

The Superintendent responded to what he called the Principal's "challenge" with a letter dated March 20. Defendant's Exhibit O. He reviewed his conclusion that "a general level of disorder existed at the school," and that fires continued. He summarized his attempts to assist with additional personnel and suggestions that Mr. Huntley

"relax [his] inflexible attitude . . . before the situation became completely out of hand." The plaintiff's letter of March 3 was characterized as "an unprofessional attempt to shift the blame for the situation at your school from your shoulders to mine." Referring to the Principal's charges as a "diatribe," "hysterical," and "strident," the Superintendent indicated that I.S. 33 was "beset by a general state of chaos." The Superintendent rejected the charge that he was guilty of "racism" and "harassing . . . and threatening [plaintiff] because of the color of [his] skin."

Apparently there were boycotts and other actions taken by some parents in the district to support Mr. Huntley before and after he was fired. Children were ordered out of the school over the school's loudspeaker system.

In evaluating the situation it must be remembered that the hierarchical line was from the Local School Board to the Superintendent to the Principal. Under the circumstances, with such a clear-cut conflict and inability to cooperate, it was obvious that either the Superintendent or Mr. Huntley would have to leave. No viable system could function with this degree of animosity. It is apparent that the Superintendent, rather than resign

determined to recommend the firing of Mr. Huntley. This was not due to any racial animosity but due to an inability of the two to cooperate on an educational policy. That the Superintendent can and could cooperate with black persons is indicated by the fact that, according to testimony, he has had no difficulty working with Mr. Huntley's successor, a black person, and with thirteen other supervisors in the district.

It is apparent, too, that the Local School Board was not animated by racial considerations in firing Mr. Huntley. He had originally been retained because he was a black man and because it was the policy of the Local School Board to increase the number of black supervisors in the district. He was replaced by a black person.

The court credits completely the testimony of members of the School Board who said that racial animus did not enter into their decision and into their evaluation, but that Mr. Huntley was fired solely because he could not, in their opinion, carry the responsibilities of Principal in I.S. 33. Discrimination was exercised <u>in favor</u> of the plaintiff in his hiring and in his retention for almost three years.

Conclusion

Failure to retain the plaintiff does not suggest any moral failing on his part. He was fired because in the honest judgment of the Superintendent and the School Board he lacked professional capacity to solve the extremely difficult problems in I.S. 33. Plaintiff's continued professional career as a teacher and supervisor has not been adversely affected. He has returned to the work he was doing before he was appointed to this position as Principal of I.S. 33. Under the law he was not entitled to a hearing before his services were terminated. The Board followed a policy of not granting hearings to non-tenured employees. This policy was properly followed in the case of the plaintiff.

The second claim must likewise be dismissed. There is no proof of racial discrimination against the plaintiff. This case is strikingly similar to the case of Albaum v. Carey, 282 F.Supp. 3 (E.D.N.Y. 1968). At page 5 the court wrote:

> While the teacher has the same right as any other citizen . . . , his style may "raise grave doubts concerning his fitness for position." I Emerson, Haber & Dorsen, Political and Civil Rights in the United States, 918 (1967). Particularly during the probationary period, the academic community as well as the community at large is justified in observing him and evaluating his judgment as he responds to the pressures of the moment. . . . . It will be difficult to prove that plaintiff was denied tenure in a public school because he exercised his constitutional freedom as a citizen . . . and not because of myriad reasons of taste and personal predilections.

After a full trial the court was compelled to conclude:

> Although he was a devoted, highly skilled, and imaginative teacher, he had difficulties in developing new programs and in carrying out school policies because of substantial and continuing disagreements with administrators and supervisors. Denial of tenure was caused by a desire on the part of . . . the school superintendent, to eliminate from the school system a nettlesome individual who created annoying administrative problems. . . . The superintendent was entitled . . . . to decline to recommend tenure during [the] ... probationary period in order to reduce the possibility of dissention with administrators and supervisory personnel.

310 F. Supp. 594 at 596 (E.D.N.Y. 1970).

The complaint is dismissed with costs and disbursements to the defendants.

So ORDERED.

Dated: Brooklyn, New York
February 19, 1975.

/0/

U. S. D. J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CLAUDE L. HUNTLEY, JR.,

Plaintiff,

vs.

COMMUNITY SCHOOL BOARD DISTRICT #14, etc., et al.,

Defendants.

STIPULATION

73 Civ. 1175 (J.B.W.)

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned, that LEROY FREDERICKS, one of the named defendants herein, be retained in this lawsuit only as a nominal defendant.

James I. Meyerson

JAMES I. MEYERSON
Attorney for Plaintiff
N.A.A.C.P. - 1790 Broadway
New York, New York 10019
(212) 245-2100

W. BERNARD RICHLAND
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New York, New York 10007
(212) 566-2186/2192

By: Deborah Rothman

DEBORAH ROTHMAN
Assistant Corporation Counsel

110

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

CLAUDE L. HUNTLEY, JR.,

Plaintiff,

-against-

COMMUNITY SCHOOL BOARD DISTRICT #14 and WILLIAM A. ROGERS, in his official capacity as SUPERINTENDENT of DISTRICT #14,

Defendants.

----------x

Deposition of JOHN O'CONNELL, a witness, taken by the plaintiff pursuant to subpoena, at the offices of Board of Education, 110 Livingston Street, Brooklyn, N. Y., on May 29, 1974, at 11:05 a.m., before Ivan Stern, a Shorthand Reporter and Notary Public of the State of New York.

///

Commerce Reporting Company, Inc.
Forty One East Forty Second Street
New York, New York 10017
CERTIFIED SHORTHAND REPORTERS (212) MU 2-7790 A COMPLETE REPORTING SERVICE SINCE 1935

APPEARANCES:

N.A.A.C.P.
Attorneys for Plaintiff
1790 Broadway
New York, N. Y. 10019
BY: JAMES I. MEYERSON, ESQ.,
Of Counsel

ADRIAN P. BURKE, ESQ.
Corporation Counsel for the City of New York
Attorneys for Defendants
Municipal Building
New York, N. Y. 10007
BY: DEBRA ROTHMAN, ESQ.,
Of Counsel

o0o

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties herein, that the sealing, filing and certification of the within deposition be waived; that such deposition may be signed and sworn to before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the officer before whom said deposition is taken.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved to the time of trial.

o0o

JOHN O'CONNELL, called as a witness, after having been duly sworn, was examined and testified as follows:

EXAMINATION BY MR. MEYERSON:

Q Would you state your name?

A John O'Connell.

Q What is your position?

A Custody engineer of I. S. 33.

Q How long have you been so employed?

A Five years at that school.

Q Five years?

A Yes.

Q You were there I take it throughout the period of time when Mr. Huntley was Principal of the school?

A A year prior.

Q In connection with your function as custodian, did you have any duties related to fire control and reporting fires in the school?

A Yes.

Q What is that function and duty?

A To fight the fires and see that the children are dismissed from the building and report them to the proper authorities.

Q Did you keep a log of fires?

A We have a general log for the whole building. It is for the fires' reports.

Q Is that log available to the Principal of the school?

A It is in my office. He can look at it any time.

Q You are the custodian of that file?

A Yes.

Q Are you here pursuant to a subpoena?

A Yes.

Q Did you bring with you those materials which were requested?

A Yes.

Q I asked you to bring with you a log of the fires which were reported from the year of '68, '69 school year to the present time.

A Yes.

Q You have brought that with you?

A Yes.

Q Who puts the fire notation in the log?

A Writes it in?

Q Yes.

A I do.

Q How are fires reported to you?

A When a fire alarm goes off, it punches its location taped in my office and I have to go to the location to ascertain whether it was a fire or a false alarm.

Q Do you write down false alarms in the log book?

A No, because they go off 20 times a day.

Q Do they still go off 20 times a day?

A We had about 3 or 4 this term.

Q Did they go off 20 times a day every day while Mr. Huntley was Principal?

A They went off quite a bit.

Q For the two years that he was there?

A Yes.

Q Or the three years?

A Three years.

Q Have the fires remained constant?

A They have not.

Q There have been a decrease in fires?

A There has been no fires.

Q No fires this year?

A Yes.

Q That is reflected in the log?

A Yes.

Q Can I see that log?

A Yes.

Q I take it that this log that you have given to me is the log of only --

A Everything that goes on.

Q Everything that the custodian and the custodian staff is involved in during a particular period of time?

A Yes.

Q What are these documents here?

A These are fire reports that I filed so my superiors would know when there is a fire.

Q Over a what period of time does this relate to?

A This is all that has been since I have been in the building. It is all signed by Mr. Huntley, I guess.

Q Would anybody else have any other of these reports or would you have gotten all of them?

A Every copy of any one of those reports were filed with Mr. Huntley. These forms were filed. One copy to Mr. Huntley, the Principal of the school and one copy to the Bureau of Plan Operation of Brooklyn North.

Q And you were responsible for being the custodian?

A Yes, during the five year period.

Q Would you tell me again, is there any record kept of false alarms?

A It is all punched out on a tape. We don't even record it. It constantly goes off and involves so much run and it takes away from other duties so we see that there is no way and we ignore it as a false alarm.

Q Where are these tapes kept?

A In my office.

Q Do you have those tapes for the last four or five years?

A I would say I have every one of them.

Q Would you say that you have most of the tapes for those?

A Yes.

MR. MEYERSON: I would like to have copies of those reports, Counsellor, if you don't have any objection and I would just like to have this made available for my further inspection.

I will make arrangements with Mr. O'Connell just to look at it.

MISS ROTHMAN: Off the record.

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(Discussion off the record.)

MR. MEYERSON: At the same time that I do that, if whatever tapes that you have available are there, I will come out and sit and look at the tapes.

THE WITNESS: It is just a bunch of tapes with holes in them.

BY MR. MEYERSON:

Q Holes?

A Punched holes. The holes are coded and punched -- the location where the fire alarm was pulled so that we could go to the area to ascertain whether there is a fire and whether we have to fight it.

Q The only time that there were fires I take it is when you made those reports?

A Yes.

Q So that I would have to go through a process of correlating those with some holes on the tape and the rest of the holes we would assume would be false alarms?

A Yes.

Q Is that true?

A You would not be able to do that. I did not

date them.

MR. MEYERSON: Off the record.

(Discussion off the record.)

Q Where were you employed before you were employed at I. S. 33?

A P. S. 90 in Richmond Hill, Queens for a period of nine years.

I have been a custodian for the Board of Education for twenty-one years.

MR. MEYERSON: I have no further questions.

EXAMINATION BY MISS ROTHMAN:

Q You testified that there are approximately 20 fires a day?

A 20 false alarms a day. One day we had 10 fires and that is documented.

Q That is documented through these sheets?

A Yes.

Q Is that when Mr. Huntley was Principal?

A Yes

Q Did the number of fires decrease drastically after Mr. Huntley was removed from his position?

A They stopped.

Q The number of fires stopped completely after

he was discharged?

A Yes.

Q What about the false alarms?

A They were very minor. Maybe 3 to 5 in this school term since September.

Q What about the number of fires before Mr. Huntley became Principal?

A Very few if any.

MISS ROTHMAN: I have no further questions.

(Time Noted: 11:30 a.m.)

_____

Subscribed and sworn to before me

this _____ day of _____ 1974

C E R T I F I C A T E

STATE OF NEW YORK)
) ss.:
COUNTY OF KINGS)

I, IVAN STERN, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That JOHN O'CONNELL, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of June 1974.

Ivan Stern

IVAN STERN

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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

CLAUDE L. HUNTLEY, JR., :

Plaintiff, :

-against- :

COMMUNITY SCHOOL BOARD DISTRICT #14 and WILLIAM A. ROGERS, in his official capacity as SUPERINTENDENT of DISTRICT #14, :

Defendants. :

---------- x

Deposition of MS. PEGGY MALAFRONTE, a witness, taken by the plaintiff pursuant to subpoena, at the offices of Board of Education, 110 Livingston Street, Brooklyn, N. Y., on May 29, 1974, at 10:50 a.m., before Ivan Stern, a Shorthand Reporter and Notary Public of the State of New York.

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Commerce Reporting Company, Inc.
Forty One East Forty Second Street
New York, New York 10017
CERTIFIED SHORTHAND REPORTERS (212) MU 2-7790 A COMPLETE REPORTING SERVICE SINCE 1935

APPEARANCES:

N.A.A.C.P.
Attorneys for Plaintiff
1790 Broadway
New York, N. Y. 10019
BY: JAMES I. MEYERSON, ESQ.,
Of Counsel

ADRIAN P. BURKE, ESQ.
Corporation Counsel for the City of New York
Attorneys for Defendants
Municipal Building
New York, N. Y. 10007
BY: DEBRA ROTHMAN, ESQ.,
Of Counsel

o0o

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties herein, that the sealing, filing and certification of the within deposition be waived; that such deposition may be signed and sworn to before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the officer before whom said deposition is taken.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved to the time of trial.

o0o

P E G G Y M A L A F R O N T E, called as a witness, after having been duly sworn, was examined and testified as follows:

EXAMINATION BY MR. MEYERSON:

Q Would you state your name please?

A Mrs. Peggy Malafronte.

Q Mrs. Malafronte, are you here pursuant to a subpoena?

A Yes.

Q The subpoena asked you to produce any documents which you may have in your possession relating to Mr. Huntley's application for a position as being Principal of Springfield Gardens High School.

A We were unable to locate them or any of them for that matter.

Q What was your position in connection with applications for Principal of Springfield Gardens High School.

A I was chairman of the panel that were to interview the people.

Q Who was on the panel?

A We contact the people according to the P.A. in the schools -- pamphlet on page 16 and 17 and mostly executive board members were solicited because

we felt that they were most knowledgeable about the needs of the school.

We did advertise it in our ~~school~~ Parent Ass. newspaper and we announced it at the general membership so anybody was able to come if they wished to and we also had two students on the panel, one voting member and one was an alternate.

Q How many persons were on the panel altogether?

A I believe there were fifteen altogether, but only ten voting.

Q That included two students and the rest were parents?

A Yes.

Q How were you appointed chairman?

A I am the president of the Parent Association and that is how I was selected.

Q How long have you been president of the Parent Association?

A My first term started this past September.

Q There was a vacancy or there will be a vacancy in the Principalship at Springfield Gardens?

A It has been filled.

Q But a vacancy did occur?

A But it was advertised in the paper.

Q In what paper?

A I think the New York Times.

Q How many applications did you receive?

A We had over 110.

Q How many persons received interviews?

A We had 13 scheduled but only 11 we worked the other 2 candidates withdrew themselves.

Q How did you ascertain who you would give interviews to?

A We set up certain criteria. That is how we went through the resumes and those that fit the criteria we interviewed. Only those candidates who could legally be appointed could be interviewed.

Q What were those criteria?

A That they would have administrative experience in a large high school comparable to Springfield Gardens High School and they would have at least five years experience in administrative work.

Q I take it that the individual that you finally selected did have previous experience in a high school?

A Yes.

Q Who was that person?

A Carl Golden.

Q Who actually went through all of the applications initially before you got to the interview process?

A I would assume that the Board of Education. I have no idea.

Q As chairman of the Parents Committee to advise the Chancellor, you were really just involved in the interviewing process?

A Yes.

Q Where were the applications initially sent to?

A To the office of personnel.

Q They were the ones who determined who would eventually get interviewed?

A No. I don't know.

This was sent down to the Board of Ed and Mr. Wilner brought the resumes to us and each parent went through each resume and, if I can recall, that was the first time that he saw the resumes.

It was simply brought into his office and put into his file cabinet and he just brought the whole batch of them when the time expired.

Q At that time the entire panel went through all of it?

A All of the resumes.

Q All of the ~~100~~ 110 resumes? or so.

A Yes.

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Q And sifted out the ones that were not acceptable?

A Yes.

Q I take it that Mr. Huntley's was the one that was not acceptable?

A Yes.

Q Did anyone or did yourself personally call Community Districts or other places where individuals who had applied were presently employed?

A Only the 11 that were finally selected.

Q Is this the letter that you sent to Mr. Huntley?

A Yes, these were form letters.

I know the first group that were not going to be in our final interview were sent this form letter.

Q I take it that there were about 90 of these or 95 of these letters sent out?

A Yes.

MR. MEYERSON: Let us have this marked for identification.

(Form letter marked Plaintiff's Exhibit 6 for identification, as of this date.)

Q As I understand it, you could not find Mr. Huntley's application?

A We can't locate any of the applications.

Q What is the ratio composition of Springfield Gardens High School?

A I think it is a little more than 50 per cent black. I don't know the rest of the balance.

Q Where was Mr. Golden previously employed?

A He was working in John Bowne. He took Mrs. Jolly's position.

Q In John Bowne he was an administrator?

A Yes.

Q An assistant?

A Mrs. Jolly came here to the Board of Education and he took over her position for that time.

Q So he took over her position of Principal of John Bowne?

A Yes.

MR. MEYERSON: I have no further questions.

Peggy Malafronte

Subscribed and sworn to before me this 2nd day of October 1974.

Notary Public
Qualified
Commission Expires

C E R T I F I C A T E

STATE OF NEW YORK)
) ss.:
COUNTY OF KINGS)

I, IVAN STERN, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That PEGGY MALAFRONTE, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of June 1974.

Ivan Stern

IVAN STERN

I N D E X

WITNESSES

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Peggy Malafronte	Mr. Meyerson	3

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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

CLAUDE L. HUNTLEY, JR.,

Plaintiff,

-against-

COMMUNITY SCHOOL BOARD DISTRICT #14 and WILLIAM A. ROGERS, in his official capacity as SUPERINTENDENT OF DISTRICT #14,

Defendants.

----------x

Deposition of DR. CHARLES I. SCHONHAUT, a witness, taken by the plaintiff pursuant to subpoena, at the offices of Board of Education, 110 Livingston Street, Brooklyn, N. Y., on May 29, 1974, at 10:30 a.m., before Ivan Stern, a Shorthand Reporter and Notary Public of the State of New York.

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Commerce Reporting Company, Inc.
Forty One East Forty Second Street
New York, New York 10017
CERTIFIED SHORTHAND REPORTERS (212) MU 2-7790 COMPLETE REPORTING SERVICE SINCE 1935

APPEARANCES:

N.A.A.C.P.
Attorneys for Plaintiff
1790 Broadway
New York, N. Y. 10019
BY: JAMES I. MEYERSON, ESQ.,
Of Counsel

ADRIAN P. BURKE, ESQ.
Corporation Counsel for the City of New York
Attorneys for Defendants
Municipal Building
New York, N. Y. 10007
BY: DEBRA ROTHMAN, ESQ.,
Of Counsel

o0o

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties herein, that the sealing, filing and certification of the within deposition be waived; that such deposition may be signed and sworn to before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the officer before whom said deposition is taken.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved to the time of trial.

o0o

CHARLES I. SCHONHAUT, called as a witness, after having been duly sworn, was examined and testified as follows:

EXAMINATION BY MR. MEYERSON:

Q Would you state your name?

A Charles Schonhaut.

Q Mr. Schonhaut, are you here pursuant to a subpoena?

A Yes.

Q Did that subpoena request that you bring any documents or letters or tangible material that you may have in connection with Mr. Huntley's application for a position in District 14?

A Yes.

Q Did you produce any such documents or letters?

A All I have is the resume that Mr. Huntley sent and the copy of a letter which we sent to Mr. Huntley.

Q Is the letter that you sent to Mr. Huntley dated August 23, 1973?

A Yes.

Q Over your signature?

A Yes.

Q And in that letter is it not correct that you

indicated that you would not consider him further for a position of Acting Principal of Public School 181?

A Yes.

Q That is an elementary school?

A Yes.

Q That is in District 17?

A Yes.

Q How long have you been Community Superintendent of 17?

A Since July of 1970.

Q Where is District 17 located?

A It is Crown Heights, Flatbush.

Q That is in Brooklyn?

A Yes.

Q How many applications, if you recall, did you have for this position?

A There's a little less than 90, something.

Q It is indicated in your letter of August 23rd which I suppose we can mark for identification that you reviewed every resume?

A Yes.

Q Were you involved in that reviewing process?

A Yes.

MR. MEYERSON: Suppose we have this marked

for identification.

(Letter dated August 23rd marked Plaintiff's Exhibit 4 for identification, as of this date.)

Q You were involved in that reviewing process?

A Yes.

Q What were the criteria utilized to ascertain whether further consideration to be given to any applicant?

A We were seeking somebody with supervisory experience in an elementary school.

Q Did Mr. Huntley have any supervisory experience at that time?

A Yes, according to his resume he was serving as the Community Principal of Mark Hopkins Intermediate School 33.

Q Can I see a copy of the resume?

A Yes.

MR. MEYERSON: Suppose we have this marked for identification.

(Letter and resume marked Plaintiff's Exhibit 5 for identification, as of this date.)

Q What is the overall ratio composition of

District 17?

A It is 76 per cent black, about 14 per cent Spanish. That is Puerto Rican and other Spanish surnames and others.

Q And the others being primarily white?

A There are some Orientals.

Q Who was finally chosen to be Principal of P. S. 181?

A Miss Joan Mulvaney.

Q Miss Mulvaney had an interview I take it?

A Yes.

Q How many people had interviews for the position?

A There were ten including Miss Mulvaney.

Q Out of approximately 90?

A Yes.

Q 90 applications?

A Yes.

Q So possibly 80 received the letters similar to the letter that Mr. Huntley received?

A Yes. That is why it is a form letter.

Q What were the criteria aside from an administrative elementary experience?

What other criteria did you use to ascertain

whether somebody would get an interview?

A First they had to be eligible and many were.

Q Was Mr. Huntley eligible?

A Yes.

Then we sifted -- let me explain the proced[illegible] that the Board uses.

They don't have any screening interview. They only have one interview. The regulations under which this is done requires a minimum of ten and the Board has in depth interviews anywhere from 45 minutes to an hour.

In order to give that in depth interview they limit the number of interviews to ten, so the initial screening is to determine who is to be interviewed. That is where the criteria are applied in terms of trying to get the ten most qualified.

Q Were all of the ten that were interviewed or did all of them have administrative backgrounds in elementary schools?

A Eight had administrative backgrounds in elementary schools.

One was an Assistant Principal in the District.

Q What kind of school?

A Junior high school. No, I am sorry.

He had some administrative experience in elementary school but he was working in the District and the Board felt that they should give some preference to people currently employed in the District whose services they knew about, and the other person who did not have an elementary background was selected for interview because that person was bi-lingual.

Q What is Miss Mulvaney's ethnicicity?

A She is white.

Q Who else was on the screening committee besides yourself?

A The Community School Board liaison to the school. The Community school member -- Board member who is liaison to the school.

Q Who was that?

A Senator Vander Beatty.

Q As I understand it, you and Senator Vander Beatty took the 90 applications or thereabouts and screened them and then set up interviews?

A Yes.

Q Who sat in on the interviews besides you and Senator Vander Beatty?

A There were Board members -- sometimes there were six Board and sometimes five.

They were interviewed different nights but there were Board members. Three parent representatives and myself.

Q Did either you or Senator Vander Beatty to your knowledge call any Districts where applicants were previously employed to ascertain what their situation was in those Districts?

A Only those that were interviewed.

Q You did not do it for any other individuals who you did not consider for an interview?

A At the end of the last interview, I informed the Board and the parent representatives of what information I received about the candidates who were interviewed, so we made no calls except for those ten.

Q What is the ratio background of their particular school, P. S. 181?

A The majority is black but I don't have the exact breakdown.

Q How many black administators are there in the District 17?

MISS ROTHMAN: I object to the question as to relevance. You can answer the question.

A There are four black Principals and the Deputy Community Superintendent is black.

Q He is in the Community office and the others are in the schools?

A Yes.

Q Out of how many?

A Seventeen Principals.

MR. MEYERSON: I have no further questions.

_____

Subscribed and sworn to before me

this _____ day of _____ 1974.

CERTIFICATE

STATE OF NEW YORK)
) ss.:
COUNTY OF KINGS)

I, IVAN STERN, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That CHARLES I. SCHONHAUT, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of June 1974.

Ivan Stern

IVAN STERN

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I N D E X

WITNESSES

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Charles I. Schonbaut	Mr. Meyerson	3

EXHIBITS

PLAINTIFF's		FOR IDENT.
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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

CLAUDE L. HUNTLEY, JR.,

Plaintiff,

-against-

COMMUNITY SCHOOL BOARD DISTRICT #14 and WILLIAM A. ROGERS, in his official capacity as SUPERINTENDENT OF DISTRICT #14,

Defendants.

----------x

Deposition of HAROLD SIEGEL, a witness, taken by the plaintiff pursuant to subpoena, at the offices of Board of Education, 110 Livingston Street, Brooklyn, N. Y., on May 29, 1974, at 10:00 a.m., before Ivan Stern, a Shorthand Reporter and Notary Public of the State of New York.

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Commerce Reporting Company, Inc.
Forty One East Forty Second Street
New York, New York 10017
CERTIFIED SHORTHAND REPORTERS (212) MU 2-7790 A COMPLETE REPORTING SERVICE SINCE 1935

APPEARANCES:

N.A.A.C.P.
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IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties herein, that the sealing, filing and certification of the within deposition be waived; that such deposition may be signed and sworn to before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the officer before whom said deposition is taken.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved to the time of trial.

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H A R O L D S I E G E L, called as a witness, after having been duly sworn, was examined and testified as follows:

EXAMINATION BY MR. MEYERSON:

Q State your name for the record.

A My name is Harold Siegel.

Q Mr. Siegel, my name is James Meyerson and I am one of the attorneys for Claude L. Huntley, Jr., who is presently ligitating against Community School Board #14 and I have a couple of questions that I would want to ask you in connection with that litigation.

A Yes.

Q Where do you presently reside?

A 300 Central Park West in Manhattan.

Q What is your present occupation?

A Secretary of the Board of Education.

Q How long have you held that position?

A Eight years.

Q Are you here pursuant to a subpoena which was served upon you?

A Yes.

Q Did that subpoena request that you bring any documents or materials which relate to the reason that

Claude Huntley was not considered in depth for a position with the New York City Board of Education?

I will read what the subpoena says:

"Bring with you all relevant documents, tangible materials which relate to the reason that Claude L. Huntley, Jr. was not scheduled for an interview in connection with his application for a position with the New York City Board of Education."

Did you bring any such materials with you?

A I think that you have to ask for them.

Q Are there any such materials?

A I would not have the vaguest idea.

Q Who would know?

A The people who reviewed --

MR. MEYERSON: Off the record.

(Discussion off the record.)

Q As I understand it, there are documents produced here in accordance with the subpoena and I would like the opportunity to look at them at some point in time.

A Yes.

Q Mr. Siegel, I am going to show you a letter which I will have the reporter mark and ask you if this is your signature and if that is a letter over

your signature?

A That is a stamped signature.

Q Did you put the stamp on it?

A No, I did not.

Q Is this a letter which in the normal course of function as Secretary of the Board of Education went out to the best of your knowledge?

A This is one of about 800 odd letters that -- identical letters that were sent out except for the addressees and the office staff filled them in and stamped the signature.

MR. MEYERSON: I wish to have this marked for identification.

(Letter marked Plaintiff's Exhibit 1 for identification, as of this date.)

Q Mr. Siegel, what position was Mr. Huntley applying for if you can recall or if you have any document there to refresh your recollection?

A Mr. Huntley's name appears on a list. He is number 309 of 356 names.

That list is covered by a form letter in the office personnel acknowledging receipt of an application as to one or more of the following positions.

Executive Director for Educational Planning

and Support.

Executive Director for Community School District Relations.

Executive Director for Centralized School Administration.

I am told that he applied for all three.

Q There were a total of 356 applications for all three of those positions?

A There were a total of well over 800.

Q What were the 356?

A Let me explain that.

Apparently the first advertising for these positions took place in August of 1972.

Subsequently the task of coming up with candidates to interview was turned over to the Economic Development Council which had been initially responsible for proposing this reorganization.

There was subsequently advertising, I think in March of 1973 at which time some 500 odd more applications came in.

Q Do you know what the procedures are for interviewing an individual applicant for a position with the Board?

A In this case, I can tell you as much as I know.

The final names that were supported for interview to the Board of Education were submitted by the Economic Development Council.

I am not suggesting that their names were confined to those who applied because some names were submitted are people who did not apply.

Q Who is on the Economic Development Council?

A The Board of Trustees. Who is involved in this?

Q Yes.

A Well, the chief person was somebody by the name of William Alexander.

Q Who was he employed by?

A The Economic Development Council.

Q What is the Council?

A It is a private organization of various businesses -- businessmen who are privately funded. The organization is privately funded and they hold themselves to the Board of Education and the City agencies for reviews, evaluations to assist the City agencies in more efficient operating.

Q Do you know what criteria they used in ascertaining --

A I don't know what criteria they used.

I know the criteria that was set up.

I have here the criteria used for screening the original applications and Mr. Huntley's name was one of those.

Q Can I see those?

A Yes.

MR. MEYERSON: Suppose we have this marked for identification.

(Memorandum to Harold Siegel from Rufus Shorter marked Plaintiff's Exhibit 2 for identification, as of this date.)

Q Mr. Siegel, this memorandum which has just been marked as Plaintiff's Exhibit No. 2 indicates that approximately 20 applicants for each position were submitted to the Chancellor for interview.

A Yes.

Q I take it that was 20 applicants out of the initial 360 names?

A I don't know that.

I will give you what my best understanding is so that you may be able to avoid further examinations.

These initial applications went to personnel and then they were sent back to the Chancellor and then the Chancellor's office I understand reviewed them and

they sent them to personnel and then to the E.D.C. so that there was -- I am not clear on what point the final determination was made, but I do know that we have a document here -- that the initial screening was made by our Department of Personnel and the screening was based on numerical screening from one to four; four being the top as I understand it, Mr. Huntley was rated as number three.

MISS ROTHMAN: At this point I would like to make an objection.

I make a continuing legal objection to the entire line of questioning of Mr. Siegel.

This objection goes to the legal relevance of this entire line of questioning.

It is based on the fact that the application for this position about which you are questioning Mr. Siegel and the term occurred prior to Mr. Huntley's termination in the Community District 14 and on that basis, I fail to see any legal relevance to this entire line of questioning.

BY MR. MEYERSON:

Q You indicated that he received a rating of three?

A That was what the list of rating shows, yes. Each one of them is rated.

Q Do you know if his name was within the approximately 20 applicants that were initially sent to the Chancellor?

A No, I do not, but if the rating has any meaning, it would not have because there are obviously more than 20 with the rating of four.

Q Do you know who was chosen for these positions?

A Yes.

The Executive Director for Education Planning and Support was eventually Dr. Edith Gaines.

The Executive Director for Community School District Relations was eventually Mr. Alfred Matthew.

The Executive Director for Centralized School Administration which subsequently was changed to the Division of High Schools was Mr. Samuel Polatn[illegible].

Q Do you know if the office of personnel at the Board, when they were initially involved in this matter before getting to the Economic Development Council, do you know if your personnel office made phone calls to any Districts or Community Boards where applicants may have been employed?

A No.

Siegel

You don't know?

No.

Who would know?

The people who did the work.

Who were these people?

I am not positive.

I think Mr. Shorter was in charge and then Mr. Sealey.

These are the two people that had been in it.

Is it your opinion that probably the matter of get interviews and who would proceed onward primarily on these criteria?

I can't respond to that question like that.

MR. MEYERSON: Well, then I will have to get a hold of Mr. Shorter and Mr. Sealey and hope that they have the answers.

MISS ROTHMAN: Off the record.

(Discussion off the record.)

MR. MEYERSON: Can I get copies of these documents?

MISS ROTHMAN: Yes.

MR. MEYERSON: Suppose we have this marked for identification.

(Letter dated April 12, 1973 to Harold Siegel marked Plaintiff's Exhibit 3 for identification, as of this date.)

Q With respect to Plaintiff's Exhibit No. 3, would you explain what the document is?

A This is a letter to me dated April 12, 1973 which was about the time that I received the list or sending out the letter previously referred to as Plaintiff's Exhibit No. 1.

The letter speaks for itself except that Mr. Len Stevens mentioned in the letter was the Assistant to the Chancellor and Mr. Irving Anker at that time was Deputy Chancellor.

Q Mr. Siegel, do you have any knowledge of whether or not Mr. Huntley was not further considered for positions that you previously stated because of any conflict that he was having in his position, in his administrative position in District 14?

A I would have no knowledge as to whether or not he was considered any more than anyone else who was not given a top rating on the initial screening.

Q And Mr. Shorter and Mr. Sealey would probably be the best individuals to address that question to?

A I would think so, or it may very well be that

Mr. Alexander at the Economic Development Council would know.

Q Where is the Economic Development Council?

A Somewheres in Manhattan.

MR. MEYERSON: I have no further questions.

MISS ROTHMAN: I have a few questions.

EXAMINATION BY MISS ROTHMAN:

Q Mr. Siegel, would you say that in your opinion that if he was not given a top rating on the preliminary individual screening, in all likelihood no contact was ever made to Community School Board or to any other places to find out any additional information about him?

A I really don't know. I don't know how they handle that.

Q What was the date of the original application for this job approximately?

A Mr. Huntley's application?

Q Yes.

A August 21st.

Q What year?

A 1972.

Q What was the approximate date?

A It is August 21, 1972.

Q What was the approximate date of the turn-down

or the rejection?

A It would have been somewhere presumably between that date and I would say a month or two probably before this letter because it is my recollection that I was not asked to send out these rejection notices until after recommendations had been made for interviews to the Board.

Q That would be a month or two before May 2, 1970 --

A Yes, at least a month or two. That is my recollection.

Q You personally were not aware of any conflict that Mr. Huntley may have had at the District School 14?

A Well, I think there was a matter in the public press.

Q Was that later, was it not?

A I don't recall the time. I don't recall the time when there was difficulty. I would not recall that at all.

Q Can you tell me the races of these three people who were chosen for the job?

A Yes. Dr. Gaines is black. Mr. Matthew is Puerto Rican and Mr. Polatnick is white.

Q How many people actually applied for these

jobs?

A Something like 800.

Q How many people were actually interviewed?

A I don't know.

When you say interview, you are now at the Board of Education level?

Q Yes.

A When the Board of Education interviews -- I know they did not interview all the people that were recommended because I was recommended and I was not interviewed.

They may have interviewed others who were not recommended. I don't know.

I don't know the names of all the people who were recommended and I don't know who the Board interviewed.

Q This letter that you signed, that is a form letter?

A A form letter, yes.

Q Do you know to how many people such a letter was sent?

A I would say over 800 people.

Q Do you recall Mr. Huntley's in particular?

A No.

Q To the best of your recollection, Mr. Huntley was turned down for this position because he was not qualified?

A I would assume so. I would have to assume that based on the rating and assuming that his name was not -- his name was not submitted for interview because I originally sent out these letters only to those whose names were submitted for interview.

MISS ROTHMAN: I have no further questions.

BY MR. MEYERSON:

Q Do you have Mr. Huntley's application?

A No.

Q Where is Mr. Huntley's application?

A I don't know.

Q Can you try and ascertain where it is?

A I have tried. I can't locate it. One of many that cannot be located.

Q Are they generally kept for a certain period of time?

A I don't know.

I was given a whole suitcase of them and then the suitcase was transferred to the owner of the suitcase when he asked for it back, so it was transferred in red folders but more important, these initial application

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went back and forth between the Chancellor's office and the personnel office.

We have records of any number of applications not being available.

Q Are there to your knowledge any other documents or letters or any other tangible materials which relate to Mr. Huntley's application for the three positions?

A I would not know.

Q Who would know that; Mr. Shorter?

A Mr. Shorter or Sealey.

MR. MEYERSON: I have no further questions

_____

Subscribed and sworn to before me
this _____ day of _____ 1974.

C E R T I F I C A T E

STATE OF NEW YORK)
) ss.:
COUNTY OF KINGS)

I, IVAN STERN, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That HAROLD SIEGEL, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of June 1974.

Ivan Stern

IVAN STERN

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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

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CLAUDE L. HUNTLEY, JR.,

Plaintiff,

-against-

COMMUNITY SCHOOL BOARD OF BROOKLYN, NEW YORK COMMUNITY SCHOOL DISTRICT #14, etc., et al.,

Defendants.

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73-C-1775

United States Courthouse
Brooklyn, New York

February 6, 1975
10:30 o'clock A.M.

B e f o r e :

HONORABLE JACK B. WEINSTEIN, U.S.D.J.

IRA RUBENSTEIN
ACTING OFFICIAL COURT REPORTER

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Appearances:

JAMES I. MEYERSON, ESQ.
-and-
THOMAS HOFFMAN, ESQ.
Attorneys for Plaintiff

DEBORAH ROTHMAN, ESQ.
Attorney for Defendants

C L A U D E L. H U N T L E Y, JR., called as a witness and, having been first duly sworn by the Clerk of the Court was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MEYERSON:

Q Will you state your name and present address for the record?

A My name is Claude L. Huntley, Jr. and my address is 10 Primrose Lane, Roosevelt, New York, 11575.

Q Mr. Huntely, by whom are you presently employed?

A New York Board of Education.

Q In what capacity are you employed

A As a remedial reading resource teacher at I.S. 1710, located at 300 Willoughby Avenue, New York.

Q What school district is that located in?

A District 13.

Q How long have you been employed in this capacity?

A Two years.

Q Prior to your employment in that capacity, where were you employed?

A I was the principal of intermediate school 33, located at 70 Tompkins Avenue, Brooklyn, New York

Q What school district is that located in?

A That's in school district 14.

Q How long were you employed in that capacity?

A Three years.

Q How long have you been employed in total in the New York School System?

A Approximately 21 years.

Q And would you tell the Court what positions you held while you have been employed in the school system other than those that you have just mentioned?

A I came from the New York State Department of Corrections. From the Cocksackie Correction Facility in Cocksackie, New York. I came from there in 1957 and I started working at P.S. 26, located at Reed and Lafayette Avenues in Brooklyn.

I worked there from 1957 until June 1962. I left from that school to help open up a 600 School at 251 Stag Street. The number of the school at that time was P.S. 617.

For the 600 schools have the -- I was one of the original cadre to help organize the school to set it up. To organize, set up the curriculum of the school. I organized the library and I ordered all the instructional materials and supplies. In fact, I helped to actually

activate this particular school and I served there until 1970, June of 1970.

During my stay there, I was the acting assistant principal for four and a half years.

Q The last four and a half years you were the --

A Acting assistant principal.

Q During the beginning, you were a teacher on the staff?

A Yes sir.

Q What is the 600 school?

A A 600 School is a school for socially maladjusted boys.

Q Where was that 600 school physically located?

A 651 Stag Street, Brooklyn, New York; right off Bushwick Avenue.

Q What school district would that now be in?

A It would be in the physical inverse of District 14, but it centralized and they call it District 75.

Q Do you have any State certifications?

A Yes. I am certified by the New York State as an elementary school principal, secondary school principal and school district administrator.

Q What is your educational background?

A I have my B.S. from Alabama A & M University. I have my M.A. from Teachers College, Columbia University and I have 50 post graudate credits beyond the M.S. at Columbia University. I have 31 post graduate credits at Brooklyn College in Administration and Supervision.

Q Now, you indicated that you spend approximately eight years at the 600 School?

A Yes.

Q In Brooklyn. Did you become familiar with the community in which this 600 school was located?

A Yes, I did. Because I was very active with the community agencies within and around P.S. 617 at the time, now P.S. 26. I was involved with community activity. I was involved in after school activities within that same school?

Q Did you become familiar with the children and parents of parents who attended the Public Schools in District 14?

A Yes, I did. Because the bulk or the majority of the students who were black or Spanish, came from P.S. 33 and naturally, I was totally involved with this process of the children coming into the school and discussing with the parents about the education. Discussing with the parents about the reason why they are there. And I tried to allay

the parents' fears so that their children would not be characterized or stigmatized.

Q Now, how did you come to learn about the position at I.S. 33?

A I learned about the position at I.S. 33 from one of my educational assistants who were in the reading, remediation at P.S. 36. She told me that they were looking for a black principal for I.S. 33, a black principal who had all the qualifications.

So, naturally, I became interested because I'm thinking in terms of upgrading myself as much as possible within the framework of New York City Board of Education.

Q Did you, after learning of this position, make a formal application?

A Well, I first -- I sent my credintials in to the Parents Association.

Q At I.S. 33?

A Yes.

Q Did you receive any response from the Parents Association?

A The parents delegation from I.S. 33 came to P.S. 36, to discuss with me about my availability of taking over this particular school.

Q How long did you spend?

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A We spent 2, 3 hours together discussing the philosophy of education, discussing the pathology of the inner city school. We were discussing my approach to education in making it a community based institution.

The parents seemed satisfied with this and they left.

Q Did you then submit a formal application to the Community School Board or --

A I sent my resume to the Community School Board.

Q And did you have an interview either with an individual board member or collectively with the Board?

A Sometime in the latter part of the school year in 1970, Mr. Raymond Miscousci (phonetic) came to me to interview me. He was a member of that particular Board and he spent three hours with me discussing the same thing, pertaining as I discussed with the parents.

Operation of the school, my feeling for the community, my feeling for education of children and naturally I told him that I was committed to this proposition that the children in the school must get quality education.

I'm committed to quality education and therefore, I could not under any circumstances see any of our children shortchanged.

Q How, were you -- did you speak with the Board

member about your philosophy, about socially maladjusted children and your approach to dealing with them?

A Well, I also discussed that aspect of it, too. Because I informed him that what I will do at I.S. 33 is to try to contain the socially maladjusted children, especially the boys, and try to contain them within the framework of I.S. 33 rather than to send them into P.S. 36.

Because, as I said before, to me the philosophy of the 600 program or the philosophy -- it's very good, but I felt it would be better to keep those children contained within my particular main building at 70 Tompkins Avenue.

Q Is it your experience that children placed in the 600 school separate and apart from the children who are in normal public school settings, are stigmatized mentally?

A Naturally, I did.

Q Was there a rumor, kind of a common name given to that 600 school by children?

A Well, the children in the regular public school would always say, "Well, you go to that 600 school, you in jail." Something like that.

I want to eliminate that type of stigmatizism by keeping my children within the framework of my school.

Q Now, did you make that -- you did make that known to the School Board; is that correct?

A Yes.

Q Did you make that known to the parents association?

A I did.

Q One question about the 600 school, what was the basic enrollment of that school?

A 100 per cent black and Spanish.

Q Now, after meeting with the individual Board members, did you have a meeting with the Board collectively or with the Parents Association?

A Well, in June of 1970, I met with the Board members, the incoming Board. Let's digress a bit here because the outgoing Board in June was the Board who designated me for the job. And it was incoming Board's job to give me the -- to make it official.

Now, I met with them and I met with the Board at a public meeting at I.S. 33 sometime in June of 1970.

THE COURT: That was the new Board?

THE WITNESS: The new Board, yes sir. Public meeting at I.S. 33 about parents, teachers and administrators and all other persons concerned with this particular appointment. At that particular meeting, there was a Mr. Dominick Mossario (phonetic) who was the other candidate competing for the job.

He presented his case and I presented mine and the decision was not made that night. The decision was made later in July of 1970.

Q And what was that decision? Did you get the appointment?

A I received the appointment by a 9 to nothing vote.

Q Now, did you begin to function in your position as principal after receiving that vote?

A Yes. After I received the majority vote, I went to the school the next day. I picked up the keys from the principal who was terminating his summer program, a Mr. Herbert Fox, who had taken over from Mr. Sidney Clarboric.

Q What were your functions at first, the first few days initially?

A Initially, I had to come into the building and I had to take a physican inventory of the entire building. That means, checking the condition of the room; the desks, the lighting system, checking the lunch room, checking the lunch room for vermin or bugs, what have you. Checking outside of the building, which includes the windows, broken windows. The number of broken windows we had there were many. Check the school yard condition, the gats and so forth and the locks.

All of that in a report I turned over to the Community Board.

Q What was your general impression about the condition of I.S. 33, after your examination?

A Well, the building was in need of a lot of work. It needed a lot of work, especially replacing of windows; and making some of the areas within the school building structurally sound.

Q Now, did you speak with the superintendent of the district?

A When I was appointed, the superintendent was away on vacation and he did not return until the latter part of August.

By the time he returned, I was in the process of being hauled into Supreme Court with the temporary restraining order forebidding me to take over the school by the Council of Supervisory Association better known as CSA.

Q Did you speak with the superintendent prior to the summer when you first became aware of the position and had your series of interviews?

A I didn't speak with the superintendent specifically pertaining to the job because it had been known by many that he said he would not recommend me for the job.

Q Now, who was that superintendent at that time?

A Mr. Ralph Brande.

Q Now, you did speak to him eventually?

A Yes.

Q It was upon his return from his vacation?

A Right.

Q At that time, you indicated that there was a proceeding instituted against you.

A Yes.

Q And who instituted that proceeding?

A The Council of Supervisory Association, CSA.

Q What was the reason that was?

A They were saying that I did not have a New York City license. Although, I had a State certification for the position.

Q Now, are you aware of whether or not Mr. Brande, the superintendent, in fact wrote a letter to anybody asking them to become principal, notwithstanding that you were in the position?

A Yes. He wrote a letter to Mrs. Dorothy Straeker (phonetic) on September 11, 1970.

MS. ROTHMAN: Objection. This is hearsay.

THE COURT: Do you have the letter?

MR. MEYERSON: I don't have it, your Honor.

THE COURT: You better lay a foundation.

MR. MEYERSON: Could you get the letter?

MS. ROTHMAN: I don't know about the letter. This is the first time I am hearing about it. Mr. Brande is not my client.

BY MR. MEYERSON:

Q Now, you were -- in the fall of 1970, acting as principal of I.S. 33; is that correct?

A Yes. And I might add, if it please the Court, that Mr. Brande tried to circumvent my appointment in the school.

Q How do you know that?

A I have copies of the letter, I have copies of the letter and they should be in our exhibit.

Q We'll get back to that.

A All right.

Q Now, did you function as principal notwithstanding that this proceeding had been instituted against you?

A Yes, I did.

Q Did you meet with Mr. Brande about your duties and function as principal?

A Prior to that, Mr. Brande called me over the telephone and asked me, the CSA has a restraining order against you for taking over the school.

Now, I would suggest that on the first day of school, you go into the guidance office and hide and I informed him I would not even think of my degrading myself in that manner.

That when school opened on September 9, 1970, I would be there and I was there.

Q Did you, prior to September 9, 1970, meet with your faculty?

A Yes. I met with the faculty, the Friday after school began. I met with my administrative staff the Wednesday before school began in that term.

Q Now, when you say your administrative staff, who was on that staff?

A That would be the assistant principal and the guidance counsellors.

Q Now, were you given any additional personnel to assist you in your first year as principal of I.S. 33?

A What little I got was --

Q Did you in fact get some assistance?

A Yes, some.

Q What positions?

A Well, the only person I brought with me was an A.P. position that was vacant. I feel --

THE COURT: What?

THE WITNESS: Assistant Principal position. We abbreviate it by saying A.P. I brought with me Mr. James Miller, who was formerly a teacher in the school as an A.P. in charge of guidance, as an A.P. in charge of music and an A.P. in charge of a specific floor within the school.

Q So, the assistant principal was an additional position that was --

A That position was vacant and I filled it.

Q Were there any other positions that were filled -- during your first year --

A Well, we had a--a French and Spanish language teacher was needed and a teacher came from Ocean Hill, Brownsville to ask me for a job.

Since there was a need for this type of person, I hired her.

Q And the other positions? Did Mr. Brande provide you with any additional personnel in the school in that first year?

A There were no additional personnel because I inherited a built in staff that included administrators and that included teachers.

Q Now, you indicated previously that you had an additional call from MR. Brande, is that correct?

A Yes.

Q Was that prior to the opening of school?

A That was prior to the opening of school.

Q Upon his return from vacation?

A Right.

Q It was at that point in time that he told you you should go into the office and hide?

A Right, yes.

Q Did you thereafter have any further conversations with him -- Mr. Brande or discussions about your functions and duties of -- as principal?

A Well, we had the regular principals meetings, district-wide once per month. There were special situations that we had to -- he wanted to call to the attention of the entire administrative staff of the district and we had conversations then.

Q Those monthly meetings I take it, were general meetings and he met with the administrators throughout the district?

A Yes.

(Cont'd on next page.)

Q Aside from those monthly meetings, did you have any specific meetings with him regarding your specific situation, your specific function and your specific duties at I.S. 33?

A He came to the school once that fall, I believe.

Q When was that, if you can approximate?

A Approximately sometime in October or November of that year.

Q What was the substance of that discussion?

A Well, he instructed me to be my own boss within the school.

Q Did he give you --

A He did not elaborate while he made the statemen t at that time.

Q Did he indicate to you any concern about any property, specific or general problems at the school?

A Well, at first, first few months was very very progressive in regard to the school as a whole.

Q Did he indicate to you --

THE COURT: I don't think I --

THE WITNESS: As I said, the first few months were very progressive late at night for the entire school.

In other words, the first few months we didn't

have any problems.

Q So, I take it that you are saying that you didn't have any discussions with Mr. Brande about specific problems the first few months?

A No.

Q Did he advise you about any particular program or your duties?

A No.

Q During the second semester of that first year of 1970, did you have any discussions during that period of time with Mr. Brande about any problems of the school?

A No more than the regular principal meetings, general meetings that we met with him from time to time once per month.

Q At the conclusion of that first year; that is, in June of 1971, did you receive a rating from Mr. Brande?

A Yes, I received a satisfactory rating.

Q That satisfactory rating, was that documented?

A We have what is known as P51 forms, yellow sheets which has on that form, "Satisfactory, Doubtful, Unsatisfactory." So, I received a satisfatory.

Q Did you actually receive a copy of that?

A Yes.

Q Were you required to sign that document?

A Yes.

Q At the time you received that document and signed it, did you get any, did Mr. Bande tell you either orally or in writing about anything that you were doing unsatisfactory?

A No, nothing.

Q Did he give you any criticism, constructive or otherwise about your performance?

A Well, the first year there wasn't too much criticism of the school.

Q Now, did you perform your duties as principal during the summer between the first and second years?

A Yes, I did.

Q What were your duties during the summer?

A During the summer, you have to program the school for the fall. I spent many days with the programmer down in the program room to program the school to give the teachers their assignments; to make sure that the program will be ready when school opened in September.

Q Let me ask you something about I.S. 33. Can you describe the physical -- withdrawn.

Are there two buildings as a component to I.S. 33?

A We have a main building at 70 Tompkins Avenue and we have an annex located about five, six miles away over in Greenpoint at 75 Meserol Avenue, where my sixth grade was moved daily to and from school.

Q How far did you say this annex was from the main building?

A Approximately five or six miles.

Q Now, your sixth grade was at the annex and seventh and eighth in the main building?

A Main building, yes.

Q Were you responsible for --

THE COURT: This is miles, not blocks?

THE WITNESS: Miles, yes.

See, you are thinking in terms of Thompkins Avenue where the school is located right below Myrtle. My sixth grade is bussed all the way across to Greenpoint between Manhattan Avenue and Laurament. Right across the street from the 94th Precinct.

Q What was the racial composition of your school on using the annex and the main building when you assumed your position as principal?

A One hundred per cent black and Spanish.

Q Did that remain constant?

A Constant.

Q The years you were there?

A Yes, it did.

Q Approximately what was the racial composition of District 14, if you know, during that period?

A About 90 per cent black and Spanish for the entire district.

Q Now, with respect to the annex, were you responsible as principal at I.S. 33 for supervision and control of the annex?

A Yes, I was.

Q How often would you go to the annex -- strike that.

Where is your office physically located?

A My office is physically, was at 70 Tompkins Avenue at the main building.

Q And would you go over to annex?

A Oh, yes. Once or twice per week to check with Mrs. Straeker?

A There's Dorothy Straeker, she was the AP, I am sorry, Assistant Principal who administered the annex building for I.S. 33.

Q Was she, for lack of a better term, more or less your surrogate while you were at the main building of

the annex?

A Yes.

Q Did you find there were problems that you had in view of the split, the dual facility of I.S. 33?

A Yes. It made it difficult to give it a very effective administration and supervision of both buildings.

Because it means I've got to leave the main building and go to the annex to discuss administrative matters with Mrs. Straeker and leave the main building under the operation of my administrative assistant.

Q Now, during the summer that you first year you did plan programs for the second year?

A Yes, that's right.

Q Did you undertake some efforts to establish S.P classes at I.S. 33?

A I asked Mr. Rande would it be possible for us to start an S.P. class at I.S. 33 in the fall of 1971. We had projected that we would start with the sixth grade, one six grade S.P. class in September 1971.

Of course, I met opposition in this regard.

THE COURT: What is a S.P. Class?

THE WITNESS: Special Progress class.

THE COURT: Those are better students?

THE WITNESS: Children who are reading two or three grades above grade level.

Q Had there, to your knowledge, ever been any S.P. classes at I.S. 33 prior to your being there?

A Throughout the history of the school there was never any S.P. class.

Q For special or brighter children, did they remain in the school in the general population or were they assigned to other schools?

A Well, you know, my feeder schools were P.S. 297 across the street, P.S. 59 on Troupe Avenue and P.S. 23. They were my feeder schools.

What happened in the past throughout the history of the school was this. This was the procedure: They would take the top students from these feeder schools and they would funnel them into Jr. High School 126 in Greenpoint and JHS 50, so at those schools reading grades would be pretty well near normal if possible.

Never was an S.P. class even thought about in I.S. 33 until I approached the idea to Mr. Brande in which he objected to it.

(Cont'd on next page.)

Q Mr. Brandy initially objected to the establishment of an SP class?

A Yes.

Q Did you in fact eventually establish an SP class?

A Yes. I was persistent in my desire to provide these services for IS 33, so IS 33 would be uprated. I finally persuaded him to agree and while I persuaded him to agree Mr. Brady already had gone through the process of sampling the children who were coming into the annex from those feeder schools.

That's when this particular action stopped in 1971, of September. We started our first SP class for the 6th year at the annex. Long range projection was to continue this until we had a three year SP class at the main building, 6th, 7th, and 8th grades.

Q Did you notice in your three years as principal at IS 33, whether there was an increase in the reading grade levels?

A Well, while I was there there was a slight increase of about three or four percent.

Q Was that increase particularly, was their increase of localized, particularly at the annex, the 6th grade?

A Not necessarily because they took the entire

school and didn't separate them. One school, so you cannot separate an annex and main building because it's one school.

Q Now, at the beginning of your second year in September of 1971, did you suffer a cutback in any key positions or any positions?

A Well, we suffered some cutbacks in teacher positions in '71 because of some small budget cuts here and there.

Q Did you have a, lose assistant principalships or any other administrative positions beginning with your second year?

A Beginning my second year I didn't lose an administrative position in the second year.

Q What if any guidance personnel?

A No guidance in the second year.

Q Did you receive any additional help?

A As far as additional help is concerned, with regard to my school, the help I received was very negligent. Didn't receive --

Q Any increases?

A No.

Q Now, during their second year, was there a change in the supervision, your immediate supervisor, did

the superintendent switch?

A In February of 1972, Mr. Brandy left the district and took over District 22 out in Flatbush. And the position of superintendent was opened.

Q Who filled that position?

A That position was filled by Mr. William Rogers.

Q Now, prior to Mr. Brandy leaving his position inthose first few months of your second year, did you ever specifically discuss with him any spec fic problems that were in existence at the school at IS 33?

A No more than we had at number 5 in the building and I would always, would report to the district office whenever that occurred.

Q What were the major of those fires?

A Some of the fires were waste basket fires and some of them were bulletin board fires.

THE COURT: What?

THE WITNESS: Bulletin board and fire in the teacher's desk or fire in the teacher's briefcase while the teacher was in the classroom. We had one major fire somewhere along that time where one room was practically destroyed, a serious fire.

Q You said you did discuss the sitation with

Mr. Brandy; is that correct?

A No more than to tell him we had the fire and which I was supposed to report at all times whenever a fire occurred.

Q Did he indicate to you any specific suggestions or advise as to how you should deal with the problems of fires?

A Not specifically because I felt I would have to resort to my administrative staff to make sure that the corridors are patrolled and make sure the corridors are free of children E.

Each AP on every floor and then an AP was responsible for that floor. And it was for the movement of the children formaking sure that when all the children in the classroom and the rooms that were not in use were locked. That was standard procedure in the school to make sure this was done. To eliminate the reoccurrences of any type of fire.

Q Did you meet with your faculty administrators to go over these rules and regulations?

A Yes, constantly.

Q How often did you meet with them?

A We had our regular faculty meeting once per month. If the situation calls for emergency meetings I would call emergency meetings and point at any relationship to

fires. We'll have to tighten up the entire structure of the entire school.

That means ever teacher and every supervisor would haveto be responsible for making sure that the halls are cleared and that the fire boxes would not be tampered with.

Q Now, you indicated one of the rules and regulations you stressed was the locking of classrooms when they were empty.

A Yes.

Q Whose initial responsibility was that?

A It was initially the responsibility of the teacher leaving the classroom at that particular period.

Q Was there any regulations with respect to passes while classes were going on?

A Well, we allowed passes only as a bad necessity. We tried to discourage them and letting kids out of classroom.

Q Did you stress that regulation?

A I stressed that regulation to my staff.

Q Is there a regulation with respect to students passing in the halls between classes?

A Between classes, they're supposed to move with dispatch to their next class. They are supposed not to litter

and that is the purpose of the teacher instructing them specifically not to stand in the doorway of their classroom. The AP to patrol the corridors on all floors to make sure that they reach their classes quickly and safely.

Q Now, before Mr. Brandy left as superintendent of District 14 in February of 1972, did he give to you any specific written or oral statement that he was dissatisfied withthe performance with your duties?

A No, he didn't.

Q Now, you indicated there were some fires in that, beginning of that second year while Mr. Brandy was still superintendent?

A Yes.

Q Was there an increase in fires during the latter part of that second year after Mr. Rogers took over as superintendent?

A Yes. There was increases in fires, yes.

Q Was that major fire that you spoke of, was that a fire during the first part of that year or when Mr. Rogers was superintendent?

A During the latter part of the year when Mr. Rogers was superintendent and when he came in.

Q When Mr. Rogers came in did you have any general meeting with him where all the other administrators were

present in the district?

A All the principals were called to a meeting to meet the new superintendent and he was introduced to all the principals at a district-wide meeting.

Q Did he follow the procedure of having a monthly general meeting with all administrators?

A Yes.

Q Now, in any of those general meetings or individual meetings, did he ever discuss with you any particular problems that you were having or he felt you were having at the school?

A Not when he first came in, no.

Q Did he do it at all during that first six months?

A No, no.

Q Did you call him at all with respect to the increased number of fires that occurred during the --

A Well, I would report the fire to the district office. I found also that before I reported these fires to the district office, someone in my school called the newspapers and told them about the fires.

Q How were you aware of this?

A Because the newspaper called, I happened to be in the office at the time, I picked up the phone and I was getting ready to call the district office about the fires.

The newspaper calls, the News, Times and said, heard you had a fire. I said, "How haveyou heard so soon, I haven't even called the district."

After I evacuated all the students from the school.

Q Was that your principal function when the fire was set to evacuate the children?

A That' first order of business is to evacuate the entire building and make sure the children are out and then I go to the scene of the fire and investigate along with the custodians and along with the fire marshal that came in response to the alarm.

Q Then, would you report it?

A To the district office, yes.

Q Now, did you speak at all with Mr. -- strike that.

Did Mr.Rogers give you any specific suggestion about what you should do in order to curtail the firesthat were occurring?

A No, he didn't.

Q Did you make any suggestions yourself to Mr. Rogers?

A Well,I made a suggestion, I told him what we were doing. After increases in the number of fires, we

decided to -- they were occurring too frequently and a pattern seemed to us to be rather strange. Because some of the fires that were set were too sophisticated for children to set the fires.

So, therefore, I met with my administrators and staff and I said, we have to keep some students on the fireboxes. So, we decided to have a program whereby, we would use student monitors from the 8th grade, larger boys preferably, to monitor fireboxes on their minor period, not the major subjects, and this was alternated from period to period.

And we found that it decreased the number of alarms and number of fires too.

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Q When did you start that program?

A That program was started in the latter part of that second, beginning of the third year.

Q Did you note any decrease --

A Decrease in number of fires as well as rings of the fire alarm.

Q This was a program that you developed with your staff?

A Yes.

Q Did Mr. Rogers indicate any positive or a negative feeling about that program?

A He didn't indicate one way or the other.

Q At the beginning of the -- at the end of that second year, did you receive a rating?

A I received a satisfactory rating.

Q Who gave you that rating?

A Mr. Rogers.

Q Now, at the time he gave you that rating, did you sign the form?

A Yes.

Q Did you receive from him any verbal or written statement of dissatisfaction with any of your duties or performance?

A No, I didn't, no.

Q During the first few months, did you -- did he ever give you any written or verbal statement that he was dissatisfied with the programs at the school or what you were doing?

A Well, I received a letter from them in September where he stated September '73, stated that they had a number of fires the preceding year, and he hoped this year would be more, would be quieter, and that it would be able to be run a -- would be able to run the school effectively and efficiently in that particular level.

MISS ROTHMAN: I think there should be a correction. September '72, not September '73.

Q September of '72 was the beginning of your third year?

A Yes.

Q That was the date that you received --

A Right.

Q (continuing) -- the letter?

Now, I'm showing you a copy of plaintiff's exhibit 2. This is a document taken from plaintiff's exhibit 2.

MR. MEYERSON: Want to markthat 2A since there are a number of exhibits in plaintiff's exhibit 2?

THE COURT: Well, I would say there is no point

in cluttering up the record. Refer to it by today, easily distinguishable.

Q Mr. Huntley, is this the copy of a document on which Mr. Rogers initially rated you?

A Yes, it is.

Q That was from the period 9/71 to 6/72; is that correct?

A Yes.

Q Now, there are a series of boxes on that document which indicate tenure, probationary, substitute, non-tenure?

A Yes.

Q What box is checked on that?

A The tenure box.

Q Now, what rating did you receive? Does it indicate?

A Satisfactory.

Q Have you, up until the point in time of your determination, ever receive an unsatisfactory rating?

A No, I never did.

Q Did you, in fact, receive an unsatisfactory rating at the time of your termination of -- in written form?

A No, I didn't.

Q Now, at the beginning of your third year, which was the first full year Mr. Rogers was superintendent, while you were there; is that correct?

A Yes.

Q Did you have any cutback in faculty?

A Yes, I did.

Q What was the circumstances?

A Well, at the middle of that term --

Q I'm talking about the beginning.

A Beginning of the term.

Well, I had one position of A.P. eliminated.

Q You had an assistant principal?

A Eliminated, yes.

Q That was previously filled and was taken away?

A Previously taken away from me, yes.

Q Was there any cutback in the number of teachers?

A That was cut back in staff because of budget cuts.

Q Was your cutback then normal?

A Yes. And we did our best to spread the jobs around as much as possible. To save a position here and there, to make sure our children received the proper instructions, sufficient teachers to do the job.

Q When you say, we did, you meant with your

administrators and other personnel at the school trying to --

A Yes, I did.

With my administrative staff, and I met with the teachers also. Especially the teachers who were involved.

Q Was there any cutback in guidance personnel at your school?

A Not at the beginning of the year, but at the middle of the year, around December or January, two guidance counsellors were taken out of the school. One was sent to the interim school, which was housed in P.S. 36 facility on Stagg Street, and one was sent down to the Central Board, and I had to make sure they didn't have enough staff to go around to take care of the 8th grade, especially in regard to placements in the high schools. And I had to be involved myself directly, because the assistant principal I had in charge of guidance and placement was not doing the job.

So, I had to take it from him and I had to do it myself along with one of my remaining guidance counsellors that was left.

Q Were those guidance counsellors positions ever filled after they were taken away while you were there?

A Wasn't actually filled, because maybe they were filled in the next year, maybe.

Q While you were there were they filled?

A No.

Q Did you lose any chairmen of the department in that last year?

A In the last year, I lost a chairman of the English Department.

Q Was that an important requirement?

A Very much so. Largest department in the school, and it involved English, it involved language arts, it involved remedial reading and other peripheral subjects.

Q When did you lose that position?

A Around the middle of the year, I think, January.

Q Was it ever filled?

A No, never filled again. I had to appoint a person as acting department chairman to carry out those duties.

Q During that last year and in your previous two years, did you implement a 600 program so as to limit the transfers of children out of your school into the 600 school?

A Yes, I did. Along with my A.P. in charge of guidance at the time, we set up what is known as self-

contained classes. Two self-contained classes, which were established in the home economic session on the third floor of the building.

And this class was self-contained. We had the teachers who were desirous of teaching those two classes and we found that it was very effective.

In fact, the 3rd year we asked for two more of those classes. So we could increase the number because we still had disruptive children.

This class did not meet the needs of all the disruptive children, so we tried to get another two more classes and teachers for that class, but we were unsuccessful.

Q Who did you make that request to?

A I made that request to Mr. Rogers.

Q Now, were there grievances filed against you by teachers during your three years as principal?

A Yes, sir, an inordinate number, too many.

Q Now, were some of those grievances legitimate?

A One was legitimate. One on class size that was a legitimate grievance.

Some of the classes, as well as industrial arts division.

Q There were problems with overcrowding classes?

A That's right, yes.

Q Could you do anything about this?

A Well, I couldn't do too much about that because I needed some more bodies to relieve this pressure.

Q When you say "more bodies,"--

A More teachers, yes.

Q Were there any legitimate grievances at the time within which you were giving an evaluation that you did not do anything at the proper time that you agree was legitimate grievance?

A Yes. I was late in giving the teachers -- it was settled at the first step.

Q What is the first step?

A The first step, you meet with the principal to try to eliminate the grievance.

Q What is the second step?

A The second step is the District Superintendent's office.

Q Now, you said there were a number of grievances that got beyond the first step; is that correct?

A Yes, it did.

Q Can you give any general description of what the substance of those grievances were?

A Well, the grievances were class size and

grievance pertaining to when I wanted to bring a teacher back from the annex to the main building and teaching positions.

Q Now, let me just ask you about the first situation, bringing teachers back from the annex.

A Yes.

Q I take it you wanted to bring a teacher back from the annex; is that correct?

A Yes. I had a social studies teacher. After I observed him several times, he was in need of retraining in the social studies field. So I felt I would bring him back to the main building where he can be in close proximity with the social studies chairman, who could give him help in restructuring his social studies teaching.

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Q Did he file a grievance?

A Filed a grievance at the first step. I didn't give him no relief because I felt it was my prerogative to shift a teacher within the school.

Q Now, did they perceive the annex of the main building to be one school?

A One school, surely.

Q And your prerogative is to place teachers in various points in the school; is that correct?

A Right, that's true.

Q And do you assign rules, for instance?

A Surely.

Q Now, did that teacher grieve to the superintendent?

A He went to the second step and he was upheld.

Q What was the reason, Mr. Rogers was --

A Mr. Rogers said I could not move the teacher back to the main building.

Q Did you indicate the reason why you wanted --

A I indicated the reason why, to Mr. Rogers. But still, that didn't matter. I still could not move him back to the main building.

Q Were there any other particular instances of grievance, which, were questionable in your mind as to how

they were resolved by the superintendent?

A Yes. I had a grievance of a non-teaching position, which has had to do with supplies. I had a teacher who, really wanted the supply job and he grieved that he was entitled to it because Mr. -- the other teacher who had the job, seniority, mind you, must emphasize this very cruelly. The teacher who has the seniority had the supply job. The teacher who had the supply job was a tenured teacher. The teacher who had the supply job was 22 years experienced in teaching and I told this teacher, I could not give him the job because the term for the supply man's term did not end until 1975. I said after 1975, you and I will talk about the supply job.

Q Did that go to grievance?

A Second step. It went to grievance.

Q What did Mr. Rogers --

A Mr. Rogers said that I had to give the teacher the job.

Q The one that you didn't think was qualified?

A Yes, that's right.

Another thing the teacher who wanted the supply job, was a probationary teacher. He was on probation.

Q The other -- tenure seniority --

MISS ROTHMAN: I would make an objection at

this point. I think we have those grievances in writing. I think they should be offered into evidence to substantiate if you have it in writing.

MR. HOFFMAN: Would we introduce it?

MISS ROTHMAN: I think those grievances are in writing. They do exist and should be submitted.

MR. MEYERSON: Your client has them.

THE COURT: We'll take a break. We'll take a 5 minute break.

(A short recess was taken.)

(continued on next page.)

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Q Mr. Huntley, how many -- approximately how many grievances were filed against you?

A Approximately -- up to the time of the spring of 1973, about twenty-three or twenty-four.

Q Approximately how many of those grievances were upheld?

A (No response)

Q Were against you, where the Superintendent upheld the grievance?

A The bulk of them except the one on class size. The one on class size and the one -- I was upheld by Mr. Brande when I appointed a person as the head of the Science Department on a temporary basis and that was Mr. Brande --

Q You say the bulk of the grievances were upheld?

A No, the majority of the grievances -- the second steps were ruled against me.

Q During that third year when Mr. Rogers was in his first full year as Superintendent, how many times did Mr. Rogers, approximately, come to your school?

A Mr. Rogers came to my school during that third year, prior to the Christmas holidays, about two times.

Q On those occasions, did he specify to you anything that he disliked about the operation of the school,

any specific or general thing?

A Nothing specific, no.

Q Did he make any specific or general suggestion to you?

A No, no suggestion or recommendations.

Q Subsequent to the Christmas holidays, how many times -- up to the beginning of May -- how many times did Mr. Rogers come to your school?

A About one or two times.

Q Was there any specific discussion at your school?

A During 1973, early part of 1973, when we had a serious fire, he seemed to be concerned about the fire. That was his main purpose for coming.

I explained to him we were doing our best to make sure these things don't occur. Checking the fire boxes and installing other innovations, instructing my teachers to be out there to make sure the alarms are not sounded and so forth. The principal is on the first floor of the building and therefore when he gets a call of fire he has to get the kids out of the building first of all and then report to the fire.

Q Did he offer any suggestions to you about the fire?

A There was no suggestion offered.

Q Were you called at all during the second semester, the winter of '73, to his office to discuss anything?

A Yes, my associate said the chairman invited leaders of a community gang in the neighborhood to come in which was an adjunct eighth grade studying of urban situations. And Mr. Polonsky asked me if it was all right.

Q Who is Mr. Polonsky?

A The assistant principal in charge of social studies.

Q What was it they --

A To bring them in and see how it worked out.

Q Was this part of a large program?

A Yes, the program to study urban situations. Many aspects of our urban life were gone into living in the community --

Q Did you discuss that with Mr. Rogers?

A Yes, I did.

Q What did Mr. Rogers indicate?

A He did not want it, he thought it was ill-advised that I would agree to bring gangs into the school. I informed him that gangs were part of the urban life. Gangs were part of the urban life, especially in our specific

community. Certainly as a part of social studies. It is certainly no harm to bring them in so that the children can learn the pathology of gang life. Not only one gang, we had many in the community.

Q Were there gang members in the school?

A Pupils were members of the gangs going to school, yes.

Q Were any persons other than gang members invited into the school in conjunction with this?

A We also invited the Police Department too.

Q Did you indicate all that to Mr. Rogers?

A Yes. Of course, we were unsuccessful. We could not make any in-roads. Even after I told him this is our community, and the gangs were here and we must involve the students in the understanding of the gang psychology which would be very good for the students.

Q Was this suggestion of the gangs initially yours?

A No. The assistant principal in charge of social studies.

Q Did you adhere to Mr. Rogers' ruling not to have the gangs?

A Yes. They weren't allowed in the school anymore.

Q Now, in connection with trying to maintain some order in the school, did you ever make a suggestion to Mr. Rogers or Mr. Brande that certain exits be locked?

MS. ROTHMAN: I object. You have been leading the witness all morning.

MR. MEYERSON: I will rephrase the question.

Q Did you ever discuss with any of the superintendents anything about doors in the school, exits and entrances?

A Yes, I discussed with Mr. Rogers if we could lock the basement door going to the big yard, it would be wonderful, we would be able to control outside people coming in and children getting out.

In a big junior high school such as this, which is an architectural monstrosity, it is hard to police all the doors. If they could be locked, it would be different. We could control the movement of many children in our school.

I couldn't get anywhere on that.

Q Did you ask for additional security guards?

A Yes, additional security guards and more aides to help patrol the corridors.

Q Did you make the specific requests?

A Yes.

Q Did you get any?

A No additional security guards.

Q Did you have discussions about these problems with the parents and the Parents Association?

A Yes, I did, on many occasions, and the parents were concerned about it.

Q Did you send a flyer out to the parents?

MS. ROTHMAN: Objection, you are leading the witness. You are doing it in almost every question you ask.

THE COURT: Proceed.

Q Did you send a flyer out to the parents?

A Yes, I told the parents we were having problems. I told the parents there was a need for many of my teachers to do a better job. I told my parents that I would like for them to come in and help us. My administration of the school was an open-door policy for the community. This had never happened before. The parents were petrified of coming in prior to my administration.

Q Do you have knowledge of that from your discussions with the parents?

A They told me many, many times. I had meetings with the parents because I was in the community at all times, I was constantly involved with community activities, and the

parents would tell me a lot of things my teachers would never hear about --

MS. ROTHMAN: I object to this as hearsay.

THE WITNESS: It is not hearsay, it is the truth.

THE COURT: Excuse me. That comment was addressed to me.

Overruled.

THE WITNESS: I'm sorry.

BY MR. MEYERSON:

Q Was there a boycott during the spring of '73?

A Yes, around -- April 25th, I believe. The parents boycotted the school for three days.

Q What was the reason?

A A number of things. They would like the teachers to be more reasonable and to try to get along with the administration and community board, and they were concerned about instruction in the classrooms, better instruction. They would also like for the teachers to dress better. This is one of the things they were concerned about. And the overall picture of the school.

I think we have some items here pertaining to that and you can check them out.

Q Now, did the Superintendent come down and

speak with the parents as a consequence of their boycott?

A Well, it was hard to get him down. Very difficult. They were informed that the president called and they would like them to come down to the school and talk over the matters in the school. IS-33 would like you to come down. But they couldn't budge them.

Q Eventually, did they come down?

A Yes, the following Sunday.

Q When was the boycott?

A The 24th, 25th.

Q What day of the week?

A Wednesday and Thursday and Friday, I believe. They tried to get him down to try to eliminate some of the things they were concerned about as far as the education of the children in the schools. They were concerned about this. The parents were very, very involved here.

Q Did you receive from the Parents Association a copy of the demands which they made available to Mr. Rogers?

A Yes.

MR. MEYERSON: May I have this marked for identification?

THE CLERK: Plaintiff's Exhibit 18 for identification.

MS. ROTHMAN: I have never seen that.

I have checked to it. Under the pre-trial order, this was supposed to be submitted a week or two ago.

MR. HOFFMAN: We just got it.

THE COURT: I will take it.

Is that the only objection?

MS. ROTHMAN: Yes.

MR. MEYERSON: We would like to put it into evidence.

MS. ROTHMAN: I would like to see it.

(Pause)

BY MR. MEYERSON:

Q Mr. Huntley, I am showing you Plaintiff's Exhibit 18 for identification.

THE COURT: It is in evidence.

Q I am showing you Plaintiff's Exhibit 18 in evidence and ask you if that is the document which you received from the Parents Association which they sent to Mr. Rogers?

A Yes, it is.

Q Now, what, if anything, did you do about any morale problems that may have existed between you and the faculty and the parents?

A I tried to meet with the faculty and explain

to them one thing they have to realize, this is a community school. They may not like many of the parents in the community, that is their business. But, we've got a school to run and each individual must be responsible to try to establish good relations with our parents in the community. Especially when the parents come into the school. When the parents come into the school, they go into the classrooms and they were told that they could see teaching going on. "You don't say anything to the teacher, you sit in the back of the room and simply observe. That is all. If you have any complaint, make them back to my office and I will take up the complaint."

Q Did you advise the teachers that this was your policy?

A Yes.

Q This is something that hadn't occurred before?

A It never occurred at IS-33.

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Q Did you do anything about reorganization of the school?

A Yes, when I saw we were having some problems in the school, I felt that it would be a good idea to reorganize the school.

Q What do you mean?

A I planned to -- what I wanted to do is eliminat the annex and bussing and save the district thousands of dollars.

And I wanted to bring the sixth grade back to the main building under centralized control. I could have control over the teachers as well as everything else. You can better control a situation like that.

Q Did you prepare a document setting this forth?

A Yes, a reorganization document. When I prepared the document, I sent a copy of the document to Mr. Rogers. It went something like this:

Dear Mr. Rogers, these are my plans for reorganiz ation of my school. Item one, two, etc.

We have a copy in the files.

Q Did you discuss your reorganization plan with any community board member?

A I think on May -- about two weeks preceding my termination, Mr. Mizgalski, he called me on the telephone and

he said "Mr. Huntley, I am calling about your reorganization, we are in the process of moving on and I want you to cease and desist."

I said, "Why?" He said, "We are the members of the Board and we feel you should cease and desist in your reorganization."

I said that is highly improper. A Board member or president of the Board never interferes with a principal in a school reorganization.

He said, "I will fire you on the spot."

Q Was that Board member the liason from the Board to your school?

A No.

Q Who was that?

A Leroy Fredericks.

Q Had you discussed the reorganization with Mr. Fredericks?

A Yes.

Q What was his position?

A He was in favor iof it wholeheartedly. He said it would be a good idea.

Q This phone conversation you had with the Board member, Mr. Mizgalski, when was that?

A About ten days before my termination, approxi-

mately.

Q When was your termination?

A On the night of May 25th, 1973.

Q Did you appear at a meeting for that night of the Community School --

A Yes, to discuss reorganization. That is all. Because I arrived before the members of the Board did and I had my plans laid out before them at the specific tables and chairs and we discussed it fully.

Q Was this an executive board meeting?

A Executive board meeting?

Q Were you requested to come for the purpose of reorganization?

A Yes.

Q Was Mr. Rogers present?

A Yes.

Q Were all the board members present?

A Not all the Board members.

Mr. Mizgalski, Brother Lally, Mr. Fredericks, Mr. Strohmeger, about six or seven.

Q Of the nine members?

A Yes.

Q Prior to that period, that executive meeting, did Mr. Rogers ever advise you in writing of deficiencies in

your performance as principal?

A No. Nothing in writing or anything about deficiencies.

Q Did you discuss your reorganization plan that night at the meeting?

A We did discuss it fully.

Q Did you then proceed to leave the meeting?

A I proceeded to leave the meeting.

Q Did any of the Board members discuss anything else with you aside from the reorganization?

A Yes, Mr. Strohmeger who is secretary of the Board stated to me some teachers had come over to the district complaining about me; he didn't go into detail.

Q Did you say anything?

A "Could you give me the ethnic composition of the teachers." He would not. And Mr. Mizgalski indicated he didn't want race to enter into it. I said I would like -- I am asking for the ethnic make-up, were there any black teachers in that contingency. I didn't get no satisfaction.

Q Was anything else discussed aside from the reorganization and that exchange?

A That's about it. Then I left.

Q When did you become aware youhad been terminated

at that meeting?

A I left and I was in good spirits as I drove home.

When I arrived home my wife welcomed me as she always does, and my children welcomed me also -- we are all totally involved inthe family and so forth.

Mr. Fredericks called me. I received a phone call about 11:30 or a quarter to 12:00. I asked "What do you think they thought of the reorganization plan?"

He said, "They voted to terminate you tonight."

That's when I first heard of it.

Q Did he indicate -- strike that.

Did you proceed to take any action after learning from Mr. Fredericks --

A I was upset, very concerned because of this type ofaction. Because I just felt when I shook the hand of Mr. Mizgalski before I left, he said "We will let you know what we think."

I felt good. I felt maybe they will go along with the idea.

Naturally I was very upset and -- I was in bad shape.

Q Did you take any specific action?

A The next day.

Q What did you do?

A Mr. Fredericks, the laison came to the school early on the morning of the 25th and news spread around that I was terminated.

He and I left the school and we went down to the lawyers' office at 40 Wall Street, Flemming and Zulack, and that's where we drew up the papers for my grievance to the chancellor in regard to this illegal procedure.

Q Did you file a grievance with the chancellor?

A Yes.

Q What was the basis?

A The termination was held at an executive session therefore it was illegal.

Q When you came to school on the next morning, was anybody in your office or were you prevented from pursuing your duties?

A No. I wasn't prevented from pursuing my duties. About 9:00 o'clock the interim principal Linon Pretty, he came down escorted by Mr. Hy Schiff.

Q Who is he?

A The District Principal in charge of intermediate schools, operating out of the district headquarters.

Q Did Mr. Hy Schiff, who you indicated was the intermediate principal, ever come to your school during the

last year you were principal to the school?

A Yes, he came a few times. He came to talk to me about the school. Even he didn't indicate any dissatisfaction. He thought I was doing a good job, a wonderful job.

Q Did he indicate that to you?

A Yes.

Q Did he specifically indicate any deficiency?

A None whatsoever.

Q How long has he been in that position?

A He came in when Mr. Rogers came in.

Q That was a newly created position?

A I think so.

Q In addition to your termination, was anything else done with respect to school problems as a consequence, in conjunction with the termination?

A On May 25th, we had scheduled, it was in the plans for four months, a festival of which we give every year around that time, and we went through a lot of preparation for this particular affair.

The theater schools came to the affair with their program to present this oral program in IS 33. This program was scheduled to go on on the Friday night of the 25th.

This program was eliminated. It collapsed with no explanation to the parents, no letter to the parents

saying we are sorry you cannot have your festival of arts because of this situation. Nothing was said to the parents -- a complete disregard and contempt for the parents, community, and the children.

We had no interim activity, no graduation for the eighth grade, no prom.

Q These are events that were already planned?

A Yes. Everything was planned. Parents had bought children dresses and suits and stuff like that. They went to a lot of expense for the festival of arts as well as the graduation. None of it was done.

Q Who was responsible, if you know, for causing the cancellationof that?

A Mr. Rogers and the community board.

(Continued on next page.)

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Q As a consequence of your grievance, was there a second termination meeting?

A Yes.

They scheduled a public meeting specifically for my termination on June 5th. I believe that was a Monday or a Tuesday, June 5th, I know is the date. To me it is a date that will live in infamy.

Q Prior to that date, were you given any charges in writing by the community school board?

A I did not receive any charges whatsoever. I did not receive a copy of the charges. I didn't receive anything.

They said the charges were at the district office. If I am the person accused of this incompetency, I should have received a copy of the charges. I received nothing.

Q Did you receive the letters which Mr. Rogers had written to the community school board indicating that he felt you should be terminated?

A I finally got a chance to look at it when Mr. Fredericks got a copy and showed it to me.

Q Mr. Fredericks is the Board liason of IS 33?

A Yes, one of the minority members on that board.

Q Did youhave an opportunity prior to that June 5th,

meeting to explain to any of the Board members your feelings about the charges?

A I didn't get a chance to present anything. I didn't get a chance to defend myself or say anything.

Q Did you on the evening of June 5th -- strike that.

When was the meeting held on June 5th?

A At my annex, 3:30 in the afternoon, June 5th.

Q Approximately how many people were present at this meeting?

A About 300.

Q It was a public meeting?

A Yes.

Q Were youpresent throughout the meeting?

A Yes.

Q Was the letter read?

A Yes, the secretary of the board read the letter.

Q Did you have an opportunity to either respond to the letter or --

A No, I did not.

MR. MEYERSON: Your Honor, for the record, that letter is Exhibit P in evidence. Defendant's Exhibit P.

THE COURT: May I see it?

MS. ROTHMAN: Yes.

THE COURT: Thank you.

(Pause.)

BY MR. MEYERSON:

Q Just a couple of more questions.

Did you and Mr. Rogers exchange correspondence towards the end of that school year?

A Yes, we did.

Q What was the exchange of correspondence about?

A On March 3rd, which is a Friday afternoon, I went to see Mr. Rogers in response to his saying that the school was in a chaotic state. I went to see him purposely to ask him for recommendations and suggestions that he could give me to help in this particular situation.

Instead of giving me one recommendation or one suggestion, he told me in plain words: "Mr. Huntley, you are up to here (indicating)."

In other words, I am in up over my head. To me that was a threat to my professional career.

Q That's what the exchange of correspondence was about?

A Yes.

Q Were you ever advised or warned unless you do so and so or so and so that you would be terminated?

A No, I wasn't, no more than when the president of the Board called me on the phone and said if I didn't cease and desist he would fire me on the spot. That is the only thing.

MR. MEYERSON: I don't have any further questions.

MS. ROTHMAN: I have some cross-examination.

CROSS-EXAMINATION

BY MS. ROTHMAN:

Q In the first place, you stated in your direct examination that prior to your termination you received actually no notice in writing from Mr. Rogers that your performance was deficient.

I have a series of letters, defendant's Exhibit O, which I would like to introduce later through Mr. Rogers.

THE COURT: They are in evidence already.

Q Defendant's Exhibit X, where there is specific criticism of your performance, I would like to read some of them --

THE COURT: Give it to me and I will read it myself.

Which ones?

MS. ROTHMAN: These two (indicating).

THE COURT: Counsel is giving me a letter dated

March 20th, 1973, Exhibit O; and May 8, 1973, Exhibit X.

MS. ROTHMAN: Here is an undated one.

THE COURT: Undated letter marked defendant's Exhibit O.

October 27th, 1972, defendant's Exhibit V.

MS. ROTHMAN: I think this shows --

THE COURT: Excuse me: Let me read them, please.

(Pause.)

THE COURT: Letter of March 20th, refers to a letter of March 3rd. Where is that letter?

MS. ROTHMAN: I have that letter.

MR. HOFFMAN: It's defendant's Exhibit C. Defendant's Exhibit D.

THE COURT: I have that now. I will read it too.

Who underlined and made marks on this document Defendant's Exhibit O?

MS. ROTHMAN: Could I see it?

THE COURT: Yes.

MS. ROTHMAN: I did but I have one that is not underlined.

THE COURT: I will take this but please don't do that.

School IS 33 is known as the Mark Hopkins Intermediate School?

THE WITNESS: Yes sir.

(Pause.)

THE COURT: I have examined the letters. You may continue your examination.

CROSS-EXAMINATION

BY MS. ROTHMAN: (CONTINUING)

Q You stated at the beginning of your testimony that you were the principal of IS 33?

A Yes.

Q Did you mean to imply by that statement you were not acting principal or full --

A I was merely going by the original appointment given to me by the community board, the one in writing, and the one typewritten. That is I was the principal and there was nothing about acting.

Q I show you defendant's Exhibit H, Board of Education City of New York, Bureau of Appointments which states your assignment was Acting.

A All right.

Q You also mentioned in your testimony that there was an increase in the reading level in the school, I show you defendant's Exhibit Z which shows that there was only an increase in grade six which was the annex and not in the main building.

With the exception there might have been a tenth of a percent of increase -- a tenth of a point of increase in one of the other schools.

MR. HOFFMAN: May I?

(Pause)

(Continued on next page.)

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CROSS-EXAMINATION

BY MS. ROTHMAN (Cont'd):

Q Isn't it not true that Dorothy Strager administered the annex on a day-to-day basis?

A As my surrogate, yes.

Q How often did you visit the annex?

A Once a week or twice a week, it all depends. At least once every week.

Q But as far as the day-to-day operation of the annex, who was responsible for the administration, you or Dorothy --

A I was responsible for the administration of the entire school.

Q Who actually administered the annex?

A Well, I was the administrator of the annex.

Q And you mentioned in your direct examination at one point that some of the fires were too sophisticated for the children to have set. If the children didn't set the fires, who do you believe set the fires?

A Well, I have no idea who did it. I don't have no proof. But they still were too sophisticated, especially the one in Room 323.

The intensity of the heat was too great for a child to start that type of fire.

Q Do you think it could have been the teachers?

A I didn't say that.

Q I just asked you that.

A I could not say that.

Q I am going to question you now on some of the things in the deposition.

MR. MEYERSON: Your Honor, I would object to her questioning him on things he said in the deposition unless she is using it as a means of something he said here to impeach what he said here.

THE COURT: Why don't you object when the question is asked, and see how it is phrased.

Q This actually isn't directly from the deposition

At your deposition I showed you this letter of March 6th where you describe the state of emergency that existed in the school.

A Yes, I wrote this.

Q You state on page 24 of your deposition that you were not responsible for this state of emergency. You specifically state that you --

MS. ROTHMAN: May I read it into the record?

THE COURT: You want to read the question and the answer at the deposition?

MS. ROTHMAN: Yes.

THE COURT: You may. Give the reporter the page and line.

MS. ROTHMAN: Page 24 of deposition.

"Question: Do you feel that you were at all responsible for the state of emergency that you described existed in the school?

"Answer: I don't think so, no.

"Question: You were not?

"Answer: No.

"Question: Who was responsible?

"Answer: I would say the same disgruntled bunch who was responsible for everything.

"Question: And as to this disgruntled bunch you describe throughout your deposition, a disgruntled bunch who you describe as racists" --

MR. NEYLON: I object to this. If we have a question impeaching him or questioning him on something he stated on direct estimony, otherwise the deposition speaks for itself, it is taken out of context and with respect to that letter it was proper, but now we are getting a paraphrasing of his deposition.

THE COURT: I think it would be best if you broke up your questions. You are trying to cover too

much ground it is difficult for the witness.

Be precise.

BY MS. ROTHMAN:

Q You say that it was the same disgrunted bunch who was responsible for everything.

Can you describe who this disgruntled bunch was?

A Well, now, the individuals that I am speaking of in the deposition were the same people who were -- initiated all of the grievances in this school, excessive number of grievances in the school.

Q And you would say they were responsible for the fires, for the chaotic conditions in the school, the fact that the school was in a state of emergency?

A I said that they were responsible for many of the problems, because this same group of people were some of my weakest teachers in my school.

Q But doesn't the ultimate responsibility of the school fall on the principal?

A Administratively, yes.

Q And you state that you were not at all responsible. I asked you, were you at all responsible and you say no.

A Not in the sense of the fires, no.

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Q I asked you about the state of emergency and the general chaotic condition --

A That letter to the parents was merely a letter of information informing the parents of the problems we were having in the school. And I was trying to elicit their support in coming into the school to see how things were going on, to visit the classroom, to see how the teaching was going on. And they could see for themselves who was responsible.

Total parent involvement in the total black and Spanish community, this is what I'm concerned about. This is my philosophy. This is what I'm concerned about at all times.

I will not make my students second rate in any way. I want them to get the best so they can compete with any student anywhere in the country. This is my drive and my desire and there were certain people in the school who didn't agree with that. They wanted business to go on as usual in the same old stalls.

They wanted to continue to keep my children down. This was my drive and my fight with Mr. Rogers on the quality of education, this is what I wanted.

Q Would you say the fact that you couldn't get along with a substantial number of teachers impeded your

ability to administer the school?

MR. MEYERSON: I object to that question and that use of the word "substantial" number of teachers.

I don't believe there is any testimony anywhere there was a substantial number of teachers that Mr. Huntley couldn't get along with.

MS. ROTHMAN: The reason I am inferring that it is substantial, is --

THE COURT: Raise the issue by laying a foundation for the question. Ask first whether it was substantial and then rephrase your question.

BY MS. ROTHMAN:

Q Were there a substantial number of teachers that you could not get along with?

A No, there were a small minority of teachers.

Q This small minority was responsible for the chaotic conditions at the school?

A They fed into it, yes.

Q Just a handful of teachers could cause a whole school not to run effectively?

A Most definitely.

Q And there is nothing you can do about this?

A Look, when teachers have the sympathetic ear of the district superintendent, they run to the superintendent

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and by-pass my office, and the superintendent backs them up, what can I do.

Q I'd like to question you on a letter of March 23, 1973, that you wrote to Mr. Rogers.

You write, "I informed you that the certain percentage of uncooperative UFT members have formed a cabal whose sole objective is to get Huntley at all costs."

I'd like to know what you mean by this.

A A cabal to get Huntley at all costs. As far as I'm concerned, what I meant by that, that they weren't concerned about a legitimate grievance. They weren't concerned about education of black and Spanish children. They weren't concerned about anything but to just come to school every day and do the same thing they have been doing for many years and emasculating and mutilating my children, and that I would not stand for.

I could not even go along with that kind of idea. This is what these teachers wanted to do.

Q When I asked you on page 19 of your deposition, "Why did they want to get you at all costs," you answer, "Because they didn't relish the idea of taking orders from a black principal, that is all, it was just that simple."

Would you say that that was the problem, that they didn't like you because you were black?

A Well, you see, when I went into the school in 1970, I inherited a hotbed of intrigue. There was resentment to my coming, I was resented by the CSA --

THE COURT: Excuse me. It would be helpful if you didn't use these abbreviations because I'm not familiar enough to know what they mean.

THE WITNESS: I was resented by the Counsel of Supervisory Association. They are the ones who got the restraining order against my taking over the school.

I was resented by a certain number of teachers in the school, surely. And it all boiled down to the trying to maintain an institutionalization of racism to continue in the school, that's all it was. They didn't want no -- they didn't want no black principal in IS 33. They didn't want no black principal in I.S. 33. I was the first black principak in the district. First black man in the district. They never wanted a black principal in I.S. 33.

If they could have gotten around giving me the job, they would have.

BY MS. ROTHMAN:

Q Are you implying that they were -- that they are all racists?

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A My statements speak for themselves.

Q Do you know if the present black principals ran into any of these difficulties, any of these conspiracies

A I'm not there now, I wouldn't know.

Q You also state in the same letter to Mr. Rogers -- I am questioning you on this because this language is a little hard to understand. It's hard to understand what you mean.

"You haven't laid the gauntlet then. I shall take it up as it is and establish my battle plans and strategy."

I am still unclear about what you meant by that.

A I can clarify that for you very, very quickly and very succinctly.

I simply meant that since you didn't give me a recommendation, Mr. Rogers, since you didn't give me a suggestion to help, since you didn't try to do anything to help to eliminate the problem, I will proceed to re-organize my school the way I see fit.

Q Why didn't Mr. Rogers want to help you, he was the head of the community, didn't he want to see that the school ran well?

A I surely would hope he would want to see it

run well, but the way he acted, it seemed like he enjoyed the thrill of not helping me.

Q Do you think he had personal reasons for --

A I don't know. I cannot say.

Q You mentioned the fact that the CSA was also against you.

Are you aware of the basis upon which the CSA instituted their lawsuit?

A Well, the CSA say I was not licensed by New York City. That's what the CSA said. Therefore, according to their belief, that if I was not licensed by New York City, I could not take over the school. But I am State certified as principal.

Q Are you also aware of the fact that despite the CSA lawsuit, the community school board didn't back down and continued to press for your employment?

A Yes. I can explain that, too.

Don't get the idea now that the community board was so much in favor of me, no. But the community board had a tiger by the tail and they didn't realize it.

Q I didn't hear that.

A The community board had a tiger by the tail and they do not realize it.

Q You state in your deposition, and you stated

on direct testimony that you put in fire marshals and they stopped the fires.

Could you tell me exactly how long these fire marshals were in existence?

A I put in fire monitors, student monitors.

Q How long did they last?

A This lasted for the rest of the year, actually.

Q The rest of the year?

A Yes.

Q On page 7 of the deposition, I questioned you about the statement in your complaint that you were fired because of the racially discriminatory policies of the defendants, and I asked you what these policies were, you state, "Reduction of personnel in the school, such as assistant principal in the English department."

Could you explain how this is ractially discriminatory, even assuming that there was a reduction of personnel?

A The personnel was taken out and it was not replaced, or not replaced at all.

Q And you felt that that was an act of racism?

A Just another nail in the coffin.

Q You also say that another racially discriminatory policy of the defendants was the inordinate grievance filed

by the "disgruntled UFT teaches in the school."

Well, in the first place, I'd like to point out that the UFT teachers aren't defendants in this case so that really is not a racially discriminatory policy of the defendants --

MR. MEYERSON: Your Honor, I'd object to that statement.

THE COURT: Try to limit yourself to questions.

MS. ROTHMAN: Okay.

THE COURT: Strike that.

BY MS. ROTHMAN:

Q Do you feel that these teachers file grievances simply because you were a black principal?

A Well, they filed a lot of the grievances simply because they wanted to disrupt the school procedure. They wanted to interrupt education for black and Spanish kids.

Q The same teachers that were teaching black and Spanish kids wanted to disrupt their education?

A Surely. This is what I'm saying about the institutionalization of racism in that district.

Q You mean to tell me there are teachers who are teaching at this school for a period of years who come into school every day with the intent of disrupting education?

A Sure. I have teachers who are late every day, too. They couldn't even go to the home room period.

Q I'm not talking about being late.

A That's part and parcel of destruction.

Q We are talking about intent to disrupt education.

A Well, they did it. They did it.

Q You admit in the admissions that I served you with, that the man who replaced you was a black person. If you were replaced with a black person, how can you claim that your termination is racially discriminatory?

A You see, Ms. Rothman, what I'm saying is this: There are some people who will take a job even though it is an emotion that has been satisfied. I was not that ilk.

Q Did you find that it was at all difficult to work in the school where there were, you say, 15 or 20 teachers who made -- created the state of emergency in the school and where the district superintendent refused to give you any help? Did this create problems for you?

A Well, I didn't find it difficult working in the school because there were many of my teachers who worked very well with me. May of my teachers who did a good job, you see.

Q But these teachers were able to cause such a

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terrific state of emergency, they caused you no problems in working with them?

A Ms. Rothman, listen to this: I'm going to answer your question this way.

When you have -- when you go to a situation where you have people planted in your school to funnel information to the district office, to send all your directives to the district office, even before the ink is dry, who run to the district office with news about what is happening in 33 and everything that happened in 33 is blown up out of proportion at all times, even a simple fire is blown up out of proportion at all times, you have some administrative personnel who run to the district office the same way, you see.

Now, I was fighting a battle from the beginning. I had two strikes on me in the beginning when I came to the bat, and that third strike had to be a home run or something, and I think I was getting ready to hit a home run when I was terminated.

Q Couldn't they have gone possibly directly to the district office because they felt they got no help from you?

A They got a sympathetic ear from the district superintendent. He listened to them. They used him, that's

what they did.

Every time you look around, they were running back and forth to the district office.

Q Was he stupid? Why did he allow himself to be used?

A I could not explain that.

Q I have some documents here that I'd like to question you about. I have a letter here dated March 25, 1972, from you to Dr. Harvey Scribner, where you complain that you weren't paid at your proper salary level, and on page 2 of this letter you state that you are being discriminated against, and it seems as you feel that was the reason you weren't paid, and you state, "Since I am the first black principal in the district and the only one in District 14, I am being discriminated against."

Could you explain this? Did you feel that you weren't being paid at the proper level because you were black?

A I most certainly thought that way because, you see, I feel this way: I am an advocate of equal pay for equal work, and as a black administrator and black teachers have been acting together.

We have been acting for 450 years and we have been acting, and I was laying my proposition down to

Dr. Scribner and putting it in plain words so he would understand it.

Naturally I wanted more money because that is a big intermediate school, two buildings involved, and so I say equal pay for equal work. That's all I say in that letter.

Q I'd also like to submit into evidence Defendants' Exhibit G, where you write a letter to Ralph Brandeis stating the same claim, that you weren't paid your proper salary and also stating that this was discriminatory.

A The same thing involved there as the same with Dr. Scribner.

Q I'd also like to submit in evidence Defendants' Exhibit K, a letter from Ralph Brandeis to you, Mr. Huntley, where he states that your salary was in accordance with Board of Education regulations. That was in response to your other letters.

A All right. I tried anyway.

THE COURT: I didn't understand that answer.

THE WITNESS: I said I tried. I was trying to get more money and I tried, but I didn't get it.

THE COURT: Was he right in this last letter?

THE WITNESS: According to the Board of Education regulations, he was right, yes.

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THE COURT: Had you checked that regulation before you wrote your letter?

THE WITNESS: I checked the regulation, but I felt that perhaps they could take my case under consideration.

THE COURT: I don't understand that.

THE WITNESS: And maybe change the resolution, that's all it required, a Board of Ed resolution, to change that first salary step.

BY MS. ROTHMAN:

Q You wanted the Board of Education to change --

THE COURT: Excuse me, I'd like to get this clear because I'm not sure I understand you.

Was this regulation one that applied across the City to all people?

THE WITNESS: Well, all acting people I would assume prior to the Mansfield decision, yes.

You see, I preceded Mansfield, that's why.

Q Don't you think maybe you should have checked the law before you accused these people of being discriminatory?

MR. MEYERSON: I object to that question, your Honor. He indicated that he did check the law and --

MS. ROTHMAN: Obviously, if he would have checke

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the law --

THE COURT: Direct your remarks to me or the witness.

Sustained.

BY MS. ROTHMAN:

Q I show you here a letter of September 25, 1970 -- it's not from -- not to you -- are you familiar with a Margaret Rogod?

A Yes.

Q Do you have any idea of why she left IS 33 when you became prinicipals?

A She didn't leave when I became principal.

Q When did she leave?

A She left in the middle of the term in 1973 -- I mean 1972-73 term.

Q I have a letter here from 1970 where she submits her resignation.

A But she didn't leave.

Q She actually stayed longer.

A Sure. She left when I told you she left.

Q Do you know why she wanted to leave? She claims here that she is relinquishing the position of acting principal.

A When I hired -- where Mr. Brandeis sent a letter

to Mrs. Rogod stating that she was the principal of IS 33, you see, that is --

MS. ROTHMAN: I object to this. This is total hearsy if you don't have the letter.

THE WITNESS: It is in our exhibit.

THE COURT: I will permit the answer.

THE WITNESS: It is in our exhibit. Mr. Brandeis said, "You are hereby the prinicpal of IS 33," even after I had been appointed. And she came to my office in September of 1970 to present the letter to me to show it to me and I told her that, "Mrs. Rogod, this letter means nothing. I have been appointed by the community board and I am in the job."

I said, "You will have no power in this school."

I said, "Please inform Mr. Brandeis that Mr. Huntley said so."

And subsequently she did and she sent him a letter telling him she could not take over the school. I was the principal of the school.

BY MS. ROTHMAN:

Q The letter does not state that she wants to take it over. The letter states she is appointed as assistant principal.

A As principal.

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MR. MLYERSON: Your Honor, this letter does not indicate that. This letter indicates that she, Mrs. Rogod, received a letter from Mr. Brandeis, which is the letter that Mr. Huntley is talking about, in which she indicates -- in which it is indicated in that letter he never officially got from Mr. Brandeis --

MS. ROTHMAN: I am going to have Mr. Brandeis here as a witness and we can question him further about that.

BY MS. ROTHMAN:

Q I'd also like to question you on a letter of May 21, 1973, that you wrote to Mr. Rogers.

MR. HOFFMAN: Could you show it to us first?

MS. ROTHMAN: You saw it before.

MR. HOFFMAN: I just want to make sure it's the same letter.

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(Continued on next page.)

CROSS-EXAMINATION

BY MS. ROTHMAN: (Cont.)

Q I'd like to question you on one paragraph, the second page, third paragraph.

THE COURT: Have you given the number of the exhibit?

MS. ROTHMAN: Exhibit -- Defendant's Exhibit No. K accepted into evidence.

Q You state, "My nearly four years in my school have been fraught with resentment, non-cooperation and outright racism among the delegation at my school. This word should be familiar to you by now because they are the ones who attempt to bypass my authority by going to you for backing and support.

"The bad feature of your district administration is that you are denigrating your position by giving these recalcitrant characters your support every time. Remember the scene in Shakespeare's 'Julius Caesar' where he states, 'Cassius is an ambitious man, ambitious men can be dangerous.'

"Please note that you have an ambitious man in your inner sanctum who would like to see Mr. Huntley out as principal of IS 33. There are also some ambitious teachers in my school who would like to see this happen, too. People of this ilk can be dangerous."

What I don't understand is that in response to many of the letters of Mr. Rogers about the situation in IS 33, in this letter and in the previous letter that I read from, you speak about racism, about plots, about people who want you out, and I really haven't seen anything specific in terms of improving the situation.

Now, to make my question more specific; Did you ever discuss in writing or orally with Mr. Rogers -- make specific suggestions as to how to improve the situation at IS 33?

A No. I went to him to get some suggestions when he claimed that my school was in chaos, that's all. I received none,nothing in writing at any time, and after I received no help at any time, I --

Q You, yourself in your letter of March 6 state, "The school was in a state of emergency,"and in response to that, even in your deposition, you state, "Well, only this disgruntled group, they were responsible."

Shouldn't you have, as the principal, felt responsible and done something specific and constructive rather than make these vague --

A That's why I was going to the parents, to let the parents know the situation so they could give some assistance, some volunteer help which would be very

constructive. The parent would be in the school and see what was happening. They could help us.

Q Do the parents run the school?

A The parents are part of the school structure. You cannot divorce them from the school and I would not dare to.

Q I understand the parents are supposed to give advice, they are supposed to be consulted, but they are not responsible for running the school, are they?

A The parents are responsible in helping us to run the school. That's what has happened in the past. The parents have been allowed to become involved because many people feel that the parents don't know anything. I mean, they have contempt for the parents.

Q So did you feel that when the school was in a state of emergency, as you describe in your letter of March 6, the way to resolve this was to have the parents come in and help?

A Have the parents help, surely. It's a good start. At least the parents will know the situation and they can give us a lot of assistance.

Q How do you think the parents could help to cut down on the fires?

A If you have enough parents in the building,

there never would be nobody to set fires. Everybody would be watched. Under close scrutiny.

Q You are saying the solution would have been to have the parents come in and act as paraprofessionals?

A I didn't say the solution, I said it could help to alleviate some of the problems.

Q Did you have any specific suggestions toward alleviating these problems? And if so, what are they?

A My -- in my meeting with my teachers I told them that they would be held responsible in regards to patrolling the halls and in regards to staying in the corridors to make sure that the children are moving properly and as fast as possible to get into the classroom.

I told them they will be held responsible and accountable for a lot of the workings in the school. If the school has problems, I have problems, the teachers have problems, too. They cannot escape from this responsibility. This I stressed to them over and over again. Despite this, the same group insists on doing the same thing over and over again, having secret meetings with Mr. Rogers at Junior High School 126 in Greenpoint, having secret meetings in my school with Mr. Rogers.

Q Did you feel this was a conspiracy against you?

A Well, it all had the earmarks of a conspiracy.

Q Aside from telling these teachers what their responsibilities were, did you have any specific suggestions on how to relieve the fires, the fighting, the --

A I told my AP's that I would hold them also responsible if they don't report the teachers who are not doing their jobs. I told them report those teachers to me and I will see that those teachers will be sent to the district office.

I also sent teachers to the district office.

Q What I'm trying to get at, I'm trying to find out if besides telling these teachers that they are responsible for doing their duties, did you have any suggestions for relieving this state of emergency which I described in this letter of March 6?

A Sure. I told the teachers to do their job. I told them to get into the classroom and teach, spend some time teaching rather than running to the district office, to the district superintendent. And I said, also, it is your responsibility to make sure that all your children are in the classroom, your specific children in your class are in the classroom at all times.

And this was the AP on the floor, they wouldn't have -- nobody would have a chance to set a fire. It's a

fulltime operation in running the school.

Q Wouldn't you say when a school is in a state of emergency some drastic relief is necessary, and so far all you've told me --

A That's the part of the district office. If he claims the thing was so bad --

(continued next page.)

CROSS-EXAMINATION

BY MS. ROTHMAN: (Cont'd.)

Q You claimed it in your letter --

A All right. I went to the district office, to the district superintendent and I asked him to, "Let's come up with some suggestions and recommendations to relieve the situation, if he says it was so bad." But did he give me any information? Did he say anything, did he say, "Mr. Huntley, well sit down here and we will get some recommendations together?" Did he say, "I'll be down your school first thing Monday morning and we will go over this whole program." Did he do that, no. He listened to a small segment of my teachers, that's all he did. He listened to one side. He came to my school and listened to teachers privately and proposed to come back and speak to the administrators. He never came back to speak to them.

Q Is that why you have no specific proposals how to alleviate the situation?

MR. MEYERSON: I object to this. She's trying to --

MS. ROTHMAN: I'm trying to find out --

THE COURT: Address your remarks to me, excuse me. Don't interrupt each other, please.

MR. MEYERSON: She's continuously asking him the same questions and he's continuously giving the same responses.

THE COURT: On cross-examination, repetition of some kind is permitted.

Bring this portion of your examination to a close shortly, please.

BY MS. ROTHMAN:

Q Concluding this portion of my examination, in accordance with the Judge's order, would you say that the reason that you couldn't stop the situation was because of the teachers in the school who were against you and the fact that you received no help from the district office ?

A Well, when we put the fire marshals on the fire box we didn't have that many fires. That's the idea. The fires decreased considerably because the children had become fatigued from going up and down the stairs for false alarms. So I'm sure those pupils who had good relationship with me, who came to me on many occasions would have told me if anyone had attempted to set a fire in that building, and the fires decreased a great deal.

Q There was a school boycott and the school was closed and is that the reason --

A It was only closed for three days at the first

boycott.

Q There was a second boycott?

A Well, the parents and the community were wanting me as principal. They went to a lot of trouble to get me into the school and they didn't want me to be thrown out of the school. This is the idea.

Q Do you know how many parents participated in the boycott?

A Many parents.

Q How many parents?

A I couldn't give you an exact number. I wasn't there before school closed, I was terminated.

Q Could it be ten?

A More than that. They came in shifts. They relieved each other.

Q I show you a letter here marked Defendants' Exhibit J to Mr. Rogers, and I am a little vague, a little mystified about what it's about, it says, "We received a call from the State Education Department, and this is another one of the series of anonymous reports specifically designed as a conspiracy against my principalship of the school."

THE COURT: Would you give the document number so the record will be clear?

MS. ROTHMAN: It's Exhibit -- Defendants'

Exhibit J.

Q Could you explain what -- how the Commissioner of Education was involved at all in this conspiracy -- I don't mean he directly --

A I remember that letter. Well, I received a call from the State Education Department and they sent someone from the school to hexograph my letter to the parents and sent it to Albany. The person in the State Education Department told me specifically, "This is what we received from your school asking for help." What I think that happened in this particular case, the same problem whereby information would be funneled out to the district office and to the other places, too, and someone from my school sent that letter to the State Education Department. I would assume -- I don't know why, but someone in the school did it. I do not know who did it, but they called me and told me and they said that this is not done -- this is not done for your benefit. This is done to discredit you and discredit your administration.

Q I don't understand what you are saying, someone from the State Education Department told you?

A Yes.

Q That someone was trying to discredit you?

A Yes.

Q Did they tell you who was trying to discredit you?

A Someone in the school or several people in the school. He told me point-blank, "This is not done for your benefit, so be careful and check your school."

Q Is it possible that some school, some of the teachers in the school were desperate and felt they needed help from the State Education Department?

A No, I don't think so. They were not desperate.

Q There is only one more thing that I want to discuss at this point and that's the grievance proceeding brought by the -- by Ada Pratt, Leroy Fredericks and Angel Reyes against the Community School Board on your dismissal.

You mentioned you would have some objection to this.

Subsequent to your termination, you know that a grievance proceeding was brought challenging your termination and you testified as these hearings before the chancellor's Hearing Office --

MR. MEYERSON: If I may, those proceedings were instituted by the Parent Association of I.S. 33, at which one, Mark Needleman represented the Parent's Association and it concerned itself with the due processes of the Parent's Association in

termination proceedings, their failure to be consulted in the termination proceedings. Mr. Huntley was present but didn't testify.

MS. ROTHMAN: Page 3 of the hearing. Mr. Huntley attended all of the hearings and gave extensive testimony, Page 150 to 191 on behalf of the petitioners. In my office I have almost two volumes of testimony that Mr. Huntley gave.

MR. MEYERSON: The testimony was on the consultation with the Parent Association role in his termination. It has nothing to do at all with this proceeding.

MS. ROTHMAN: It also involved the allegation of racial discrimination. There was a whole finding here, around three pages about Mr. Huntley's allegations.

THE COURT: The finding will not come in, it is hearsay. The statements made by Mr. Huntley or adopted by him may be used by you on cross-examination.

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Huntley-cross

MS. ROTHMAN: I just wanted to question Mr. Huntley about it.

THE COURT: Unless he acted pursuant to them, they're hearsay as to him.

Q Are you aware of the fact the chancelor simissed the grievance proceeding?

THE COURT: I just instructed you not to take this --

MS. ROTHMAN: I just thought you said, I couldn't. Then, I have no further questions.

THE COURT: Any redirect?

MR. MEYERSON: Just two or three questions, your Honor.

REDIRECT EXAMINATION

BY MR. MEYERSON:

Q You indicated at some point in your cross-examination that the school board had the "tiger by the tail." If you would just explain what you meant.

A What I meant by that is: this, that the Community Board had appointed me as principal. Had appointed me as principal of the school and I was there and the community wanted me there as principal of the school. Therefore, the Community Board was under pressure from the community to make sure that I remained there since this

was a new board coming in, they did not want to have any major problems when school started September of 1970. They had to go along with it.

Q What did you mean on your cross-examination when you say we're testifying with the state of emergency, as you made reference to it in your cross-examination in the documents to the parents?

A I simply meant that we were at that point, had a lot of fires and I wanted the parents to give us some assistance in trying to check some of these fires and false alarms and so forth.

Q What was your reference in the principal getting a demotion, apparently you were referring to Mr. Pretty.

A Mr. Pretty was head of the state funding at District headquarters. That's CEC community education and state funding. In other words, he was the coordinator of that.

Q Is that a district-wide program?

A District-wide program, CEC, and Mr. Pretty was taken out of this --

MS. ROTHMAN: Objection. If either the job was phased out or -- he was taken out of that job. When he should have been given the title one

coordinator job which he was qualified for. So, they demoted him from headquarters and made him a principal in I.S. 33.

Q Do you know who he was replaced by?

A He was replaced by a caucasian.

Q Now, Ms. Rothman asked you a number of questions about any suggestions you made to Mr. Rogers to assist you. Did you ask Mr. Rogers for additional security guards?

A I asked him for additional security guards and I asked him for additional aides in the school.

Q Did you ask him for additional guidance counselors?

A I asked him for additional guidance people too.

Q Did you receive them?

A Not before I left.

MR. MEYERSON: No further questions.

MS. ROTHMAN: I have one last question.

Q You claimed that Mr. Pretty was demoted.

Are you aware of the fact that he's receiving a higher salary now in his position as principal than he did as his --

A Yes. But he's school based in the office. He had a policy-making role. It is a decision-making role.

Q Principalship is not a policy --

A Not traditionally wide policy, no.

THE COURT: Thank you very much, Mr. Huntley.

THE WITNESS: Thank you.

THE COURT: Call your next witness please.

MR. MEYERSON: I CALL Miss Elizabeth Karpf.

E L I Z A B E T H K A R P F , having been duly sworn by the Clerk of the Court, took the witness stand and testified as follows:

DIRECT EXAMINATION

BY MR. MEYERSON:

Q Mrs. Karpf, would you set your name and address?

A Elizabeth Karpf, 350 West 57th Street, New York.

Q Mrs. Karpf, by whom are you presently employed?

A By the Board of Education.

Q City of New York?

A City of New York. Same district 14.

Q What position do you hold?

A I'm guidance counselor at Public School 168.

Q Did you ever hold a position at I.S. 33 in District 14?

A Yes. I was at P.S. 33 for two years. Mr. Huntley was the principal of the school. Mr. Huntley

was the principal for the two years that I was there with the exception of, I believe, two and a half weeks at the end.

Q How long have you been employed by a New York City Board of Education, approximately?

A Well, I'll make a confession I never made to anybody. This is the first; I've been in the New York Public School system for 40 years.

Q What position have you?

A For about 30 of those years I was a guidance counselor unofficially. That is, before they had counseling. I was a veteran counselor for the World War II veterans. I was appointed guidance counselor. I had a scholarship for guidance in 1962 at Columbia University.

Q Are you a licensed guidance counselor?

A Yes. I have been a licensed guidance counselor since 1952.

Q What is your educational background?

A I graduated a cum laude from New York University and I had graduated with a degree, not in education, international law, which is a little far afield. I had had about 60 credits in education guidance taken at Hunter University and City College, cum laude.

I gave courses in first, well, I was assistant to the principal Thomas H. Hughes at the New York Evening High School for Men and I was the chairman of the Social

Studies Department at Morris Evening High School for about eight years. What else?

I gave courses to the Board of Superintendents at 110 Livingston Street in first aid and I gave courses to at least one thousand city schoolteachers in first aid. I gave them in service and I taught at the Columbia Presbyterian Hospital on a very good financial basis, and I taught the nurses and gave the instructorship courses in first aid.

I don't know what more to tell you about my education. I can show it in. I wrote for High Points, issues for District 14, a compendium of resources for the Williamsburgh, Greenpoint that was finally commended by Chancelor, what's his name, Daniel Vineber and also by Mayor Lindsay. I have given career conferences where I have had Timothy Costello as a guest, the deputy mayor. I'm name-felling and I don't know why. But I just happen to be.

Q Let me ask you. What were your duties, particularly as a guidance counselor?

A As a guidance counselor there are many duties. I would say most of my times as guidance counselor, in fact, almost all of it, has been spent in disadvantaged schools; that is, not problem children but children with problems. I learned very fast and forget a lot of the frills and

fads that I learned in college and to take it where the child was; for example, at 33 when some neighbors came in and told me of a family where the mother had muscular dystrophy and was in a wheel chair. The father was on drugs and the money from Welfare money, it was being taken by the father for drugs. And the family was eating potato peels. That's not a function that I learned in college but we did run up some children and were able to load up the refrigerator. We didn't stop to go through all the red tape and bureaucracy of members of the Social Services and such.

THE COURT: Excuse me. I don't want to cut you off. This is all interesting and fascinating, but I want to get to the main point here, please.

Q In your position as counselor at I.S. 33, did you work with Mr. Huntley on --

A A guidance counselor must work very closely with a principal.

(continued next page)

Q Did you work with the community?

A I worked with the principal; I worked with the community; I worked with the children; I worked --

THE COURT: Excuse me. I think it would be much better because this is a legal proceeding, if wherever possible, you answer the question or no or "I can't remember."

A I can remember, yes.

Q Did you work with teachers?

A I worked with many teachers, yes.

Q Now, over the thirty years that you have been a guidance counselor in schools in New York, have you worked under numerous administrators?

A Yes. It was no bed of roses.

Q How many?

A About ten.

Q Did you, in view of your involvement with these administrators and the expensive involvement you testified in other phases of schools, come to some opinion about the quality of a good administrator from guidance?

A Definitely.

Q What were those?

A I also took courses in administration, so I have a little background. Well, approachability to me is

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very important. To take the child to where he is to be in attune with that child and his time.

For example: I would say that Mr. Huntley, to give you an example, when a fellow needs a friend, his door was always open. He was never too busy, no matter how busy he was as an administrator, to talk to children. To listen to their problems , and if a child came in ready to climb the walls, he would do the approach that I would do. He would give them a magazine and tell them to cool off. The child went out with a smile.

Q Did you ever see Mr. Huntley perform his function as a principal with parents who were --

A He worked very closely with the parents and he usually would bring a parent with a problem to me, and we'd take it from there with agencies or whatever help we could give.

Q Did Mr. Huntley ever assis[illegible]you in performance of a duty which he otherwise wouldn't do [illegible]ause of --

A A very important thing that has come up. Alexander Hamilton gave special technical [illegible]aminations to the better students and I had told, well, it was a matter when the graduating class; if there were sixteen classes, I might have the even or I might have had the odd. And the other counselor had half and I had half. I may have had the odd

classes and he may have had the even.

Now, Alexander Hamilton, I told the other counselor the special examinations were due, and he paid no attention.

So I went on and sent them out from my class and I just didn't get involved with him. Now, I have given as much help to him, counselors, and I have letters to prove this. This particular counselor did not send out any applications for the technical courses to Alexander Hamilton and thus depriving the children of special course in a high school.

So, to add insult to injury, he had one of the assistant principals, Mr. Polansky, write me a letter saying that I had sent applications without waiting for the other counselor by my own, and Mr. Huntley, not knowing what it was about, being fair, thought that his administrator was right. That I should have waited for the other counselor.

I went in to Mr. Huntley very openly and told him that there were special examinations. Mr. Huntley picked up the telephone and called Alexander Hamilton School and they told him very definitely there were special examinations.

So that was one instance that we worked with me.

Q Was this something that Mr. Huntley would not

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have otherwise done except for the failure --

A Well, Mr. Huntley, a general can't know everything, and Mr. Huntley , as head of the school, did not know every phase of guidance. He had to rely on certain people, Mr. Polansky at that time was in charge of guidance.

Mr. Huntley then took over the guidance and

???? sent Mr. Polansky up for the program.

Then just one other instance I will give you.

We divided the classes and I made out my applications according to the regulations of the Board of Education and the schools. We sent them in to Mr. Huntley. Mr. Huntley asked me to please check all the applications to see if anything was missing. And I was kind of horrified, when I found my coworker, my colleagues's applications, that this I do vary rarely because I will show you I have a portfolio of letters I have praised my colleagues.

In this instance -- my colleague had about five applications that maybe out of 200 that were correct.

In other words, Brooklyn Technical High School, which is a special school, he sent applications to that school with children with 2.1 reading grade, which the school definitely said they would never accept. Said to be above board; above with reading grade. Anyhow, the

other schools, for example, he sent children to schools all over the boroughs out of the district.

Q Did you discuss the problem?

A I not only discussed the problem, but Mr. Huntley and I sat for four hours, working out all those cases having to go over, first, second and third choices on all those applications and redo them, and the thing annoys me. This man, when he got through with all those errors and doing no guidance, was pushed upstairs into a very beautiful job, to the district office, and I don't think that was fair, not that I care. Because I was on my way out with retirement, I wasn't trying to work for anything special, but I was very upset to know that Mr. Huntley, who called this man completely unsatisfactory, was then going into where then his view s were cast aside.

And this man was put up in a beautiful office doing special work.

Q Now, you indicated that one of the principal attributes you felt of a principal --

A Is approachability.

Q Approachability. Is that approachability to the parents?

A It depends; the parents thought he was wonderful. When he was out of the school, they were still

walking around. They had -- we were very upset because we worked so hard with the children and they were looking forward to graduation exercises, to a prom, and all this was called off.

So the parents had a party given in the community center and I know one parent, a minister that has a parish of about a thousand people and his job was graduating.

Now, they were delighted that some recognition was being given to the children. That interest has been done at all.

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Mr. Huntley -- they say this also, I am being very loyal to him because I find he is a most unusual man. Maybe to his own discomfort in many ways he is a little too honest. If there is such a thing, unlike a number of other people we find in many systems, this man has had the interest of the children at heart. He was the big daddy, and I know he is a wonderful father and wonderful himself and wonderful husband.

But he also was a big father to children that had one parent. To children where there were parents to others and to children that were nice and normal and that were learning.

May I say for academic achievement, he introduced many things. He introduced a gentleman

that is sitting here, in it on the honor roll. The children came looking at it.

In my first year there, no child had a high reading grade to the subject. It used to breat my heart. I had to say your reading is too high; you have to go to another school.

My second year there, Mr. Huntley set up those intellectually gifted classes. He also had tutoring classes after school and he had -- he tried to encourage honor rolls for attendance. This man was an administrator before he came to 33.

MS.ROTHMAN: I would like to object.

A (Continuing) He acted the part in every aspect, I think, and I couldn't see taking one man who had experience as an administrator and putting in another man who had --

MS. ROTHMAN: Objection. This witness is not an expert and --

THE COURT: Excuse me.

THE WITNESS: I said I took some courses/.

THE COURT: Excuse me. You must not argue this way. Please answer the question and then cease.

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Q Did you, when you approached Mr. Huntley with the problem concerning drugs in the school, what was Mr. Huntley's position? What actions did he take?

A Well, when I was told the children would inform me, he immediately took the thing in hand.

Q Was there an occasion when you indicated there was an aid in the school.

A That was

Q Drug traffic?

A Yes. He discharged that man.

Q Now, were you at a meeting --

Did you have an occasion to drive with certain administrators to a meeting, teachers, I am sorry. Drive to a meeting with certain teachers. Those teachers went to visit Mr. Rogers?

A Well, I worked rather late during applications and I was offered a lift partway home toward Manhattan and I was glad to get it. But the man, two men, teachers said no, they had to go to a meeting.

MS. ROTHMAN: Objection. This is all hearsay.

THE COURT: Was the witness at the meeting?

THE WITNESS: I went to the building with them but I refused to go in.

MR. MEYERSON: I am just establishing that

they were teachers and that they attended the meeting. There was a normal meeting between --

A This was a meeting with Mr. Rogers and some of the teachers.

Q Where?

A This meeting was held at P.S. 126.

MS. ROTHMAN: I object. This is hearsay. She didn't go to the meeting.

THE WITNESS: I went to the building.

THE COURT: Madam.

Q Did they ever ask you to go to the meeting with them?

A I wanted a lift home since it was supposed to be a very short meeting I sat in the car and waited.

Q What time did they come out from whereever they were?

A Yes. They came out and gave me a --

Q Did the indicate toyou anything with what transpired?

MS. ROTHMAN: Objection.

THE COURT: Sustained.

Q Did they make any statement to you?

A There were statements. There were statements and some of them I wouldn't want to repeat at any court and

others to just say it was -- they thought it was a satisfactory meeting.

Q Did they indicate who they had a meeting with?

MS. ROTHMAN: Objection.

MR. MEYERSON: Who?

MS. ROTHMAN: Objection.

THE COURT: I'll allow it upon the theory there may be a conspiracy as charged.

A They met with Mr. Rogers.

THE COURT: Next question.

Q Did those teachers come out to you in the car and say, I think that we have got him sold?

MS. ROTHMAN: Objection.

THE COURT: I'll permit it.

A As I said, they indicated it was a satisfactory meeting.

Q I ask you specifically, did they come out and --

A I don't recall words like that.

Q Now, in conclusion you have indicated you worked with a number of administrators over the years and in your opinion as a guidance counselor, how would you rate Mr. Huntley as an administrator under whom you worked?

A As an administrator in this present world with

the many pressures, I would rate him not as I have had an administrator, never came out, the children would want to know if he was custodian or administrator.

Mr. Huntley, I felt was an administrator who was on the job. I saw him put out a little waste paper fire himself. I don't know why a principal should do this.

I would say he is definitely on the top of the list for good administration and for kind administration and for helping children that needed help.

Q Did you indicate --

A And parents.

Q Did you indicate that to Mr. Rogers?

A Well, there was one meeting where Mr. Rogers came to school. We had a conference with Mr. Huntley and then Mr. Rogers came in and some of us remained and Mr. Rogers, some of the teachers were pressing their complaints to Mr. Rogers.

I walked up and I didn't know Mr. Rogers, but I did know him when I wrote a book but that was over the telephone. But anyway, I went to Mr. Rogers and I said very openly, I am sorry Mr. Rogers but I think you have been given a very wrong impression of Mr. Huntley. Mr. Huntley I feel is an unusual man and I think we should be very happy we have him as an administrator whether he is

black, white or anything.

Q What did Mr. Rogers say to you?

A He, Mr. Rogers, sa d he was glad to hear something good.

Q Did he --

A He didn't indicate anything. He just, somebody called him and that was that.

Q Was that meeting that Mr. Rogers came to school in one car, by the faculty?

A This was a regular faculty monthly conference and we just stayed on. I don't know who called it.

Q Is it usual procedure --

A No, I never saw it befor . In any school where a superintendent came in and took over above or work with a -- listened to the teachers.

(Cont'd on next page.)

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Q In your opinion, with your daily functioning in the school, was the school in a chaotic condition?

A I found in classes I would visit or assembly programs that the children learning learned and there were many such children, and the teachers were teaching.

I did notice we had fire alarms -- I saw Mr. Huntley put out a fire himself once.

Q Did you feel the school was in any more or less of a chaotic condition than other schools?

A We all read the papers and practically every school was in the throes of some dissatisfaction a few years ago. I don't ever recall that Mr.Rogers came to give orientation sessions to help the new teachers that don't know about discipline. Wherever possible Mr. Huntley had conferences and would try to indicate what he wanted professionally. There were teachers that were good and really dedicated and were doing a dedicated job. There were those that were not, well--

MR.MEYERSON: I have no further questions.

CROSS-EXAMINATION

BY MS. ROTHMAN:

Q You stated you worked in guidance counselling for thirty years, is that it?

A Not licensed, because there was no --

Q You did actually work though?

A Yes.

Q Could you tell me how many different schools you woked in in those years?

A About ten.

Q You say in the thirty years you had ten different jobs?

A Yes. Offhand, I would have to start figuring it.

Q Not more than ten?

A I don't recall offhand.

This was some schools you had to work two days and three days in another.

Q I am talking about different jobs.

A I worked at night too.

THE COURT: Excuse me, that is sufficient.

Q Prior to the time Mr. Huntley became principal, where did you work?

A I was in District 14 for five years altogether. Two years with a wonderful principal --

THE COURT: Excuse me, just answer the question.

A I am trying to figure my years.

THE COURT: You answered.

Q Did you work in the district office prior to the time?

A I never worked in the district office.

Q You never --

A No.

Q Did you ever work in IS 33 prior to the time Mr. Huntley became principal?

A No.

Q Is there any school that you worked in in District 14 that you couldn't get along in that you were transferred?

A No. I came --

THE COURT: You answered it.

A I was in one school for a few weeks.

Q What school was that?

A 318, for about three weeks maybe. Something came up on a drug situation that I didn't -- the principal forced me to state -- did I see it -- and I said "No," I am making suggestions for aids to be stationed somewhere." I went to Mr. Brandy and said I could not work with that school.

I worked the same school that Mr. Rogers was in, PS 126.

THE COURT: Excuse me. You've answered the question.

Q Could you explain what the problem was in 318?

A There was no problem, there was a strike.

Q You said you couldn't work at that school.

A If you want me to explain I will.

Some of the children -- said: you know, Miss Karpf, they are smoking marijuana and taking heroin right in the boys' toilet right under the dean's nose. I wrote a letter to the principal. I said, "Would it be possible to put some of the aids at this toilet."

And she came rushing in my office to ask if I'd seen the boys smoking and I said no.

Q You suggested this on the basis of what the kids told you?

A Why yes, the children told me.

Q Did you find often at different schools or especially IS 33 the children would come andtell you things?

A Children would come to me confidentially with things from A to Z, family, school, sports, home --

THE COURT: That is enough.

Q Did they tell you stories about teachers?

A Yes.

Q At IS 33?

A Yes, very definitely. I can specifically think of one case.

Q Did you ever ask children anything about teachers?

A No, I wouldn't do anything unethical.

Q I am sure you heard during Mr. Huntley's examination that he wrote a letter and he described the school as being in a state of emergency. You stated Mr. Huntley was a very good administrator.

Who would you say was responsible for the state of emergency?

A I would say definitely if teachers didn't leave children out of rooms without passes and some teachers did the job right, if teachers were given sessions -- I would blame the district superintendent for not taking in hand teachers who were new on the job.

I would blame the teachers. I may be wrong, but I cannot see how a principal is supposed to go out on every single floor. This man was always jumping around the building. I never saw aman get around as much as he did. Certain teachers were uncooperative. If children were allowed out just to get them out of the way as if these children were the very children that really were giving an SOS for help, and were doing things that are delinquent and wrong, I think that the teacher is the first line of defense and should take care of the situation and not the principal.

The principal professionally spoke to them --

Q What is the principal's responsibility?

A The principal's responsibilities are a number of things. We have a new word in education, accountability, which simply means the school has to be accountable for the progress made by children in various ways. I think the principal must have a good academic responsibility --

Q We are talking about responsibility now.

A He has to have a professional academic responsibility. Mr. Huntley proved that with the innovations he made. For example, we have the most wonderful music and art festivals. We had a man who has written books in poetry, all kinds of creative things, and that is the way education should be.

Q When there are test fires in the school, the music and art things are sort of icing on the cake?

A No, I wouldn't call them that. We have children who are exceptionally talented at the school, Puerto Rican and black children who are exceptionally talented musically and artistically. I would say the little fires were a nuisance, an interference, a danger, but that's the way it went.

Q Did you walk around the school much?

A I walked into classes, I observed some teachers at their invitation, worked closely with the principal on various matters, children having problems.

I say I walked around a lot.

Q One or two last questions.

After Mr. Huntley was terminated, did you remain at IS 33?

A No, Mr. Huntley was terminated and that was it. There was an opening in another school, it was considered a difficult school, they told me of an opening and I went down to see the principal and she hired me on the spot.

Q Why did you leave?

A People felt I was loyal to Mr. Huntley and I just felt I wanted a change I didn't know Mr. Pretty, I had no knowledge of the man. I spoke to him when I was writing my book He at that time --

Q What book did you write?

A A compendium on the whole community.

MS. ROTHMAN: No further questions.

THE COURT: Thank you.

THE WITNESS: THank you.

THE COURT: We will take a recess until 2:15. Let me see all the exhibits.

(A recess was taken at this time until 2:15 this afternoon.)

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(Continued on next page.)

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AFTERNOON SESSION

THE COURT: Call the case, please.

THE CLERK: Huntley against Community School Board.

JAMES H. MILLER, a witness called herein, was sworn by the Clerk of the Court, and testified as follows:

DIRECT EXAMINATION

BY MR. MEYERSON:

Q Would you state your name and present address for the record?

A James H. Miller, 46 Eddy Road, Roosevelt, New York. That is 11575 zip.

Q Mr. Miller, by whom are you presently employed?

A New York City Board of Education.

Q In what capacity are you employed at present?

A Instrument and music teacher.

Q Where are you employed?

A IS 33, Tompkins Avenue, Brooklyn.

Q How long haveyou been employed by the New York City Board of Education?

A Since 1957, September.

Q What positions have you held?

A Common branches teacher, at PS 17, North 5th and Robling in Brooklyn, from there to IS 33 which of course

then was a junior high school. That was the year 1959. And I have been there with the exception of one year which was in 1969 when I transferred to IS 92 in District 29 in Queens.

Q What positions have you held at IS 33?

A For about ten years, I was the acting chairman of the music department, and for two years, during the term of Mr. Huntley's administration, I was acting assistant to principal for two years.

And other than that I have been vocal music teacher, instrument music teacher.

Q What is your educational background?

A I am a bachelor of music from Virginia State College in 1949, about 65 or 70 graduate hours from City College and New York Universities in music, education and in education with emphasis in guidance and psychology and related subjects. Some of which were administration. And I have a master's degree in administration from New York University in administration and supervision.

And I have taken two promotional seminars for the purpose of functioning as an administrator that were sponsored by the New York City Board of Education, one was an elementary and the second was secondary, junior high school and above.

I am licensed as an elementary school principal

by the New York City Board of Education through its testing measures. And I am licensed by the State as a school administrator.

That is supervisor and administrator and eligible for superintendency. I haven't applied for it having found no need.

Q What is a doctor's equivalent status?

A Well, graduate hours above the master's degree which could be applied to a field of specialization, the number being I suppose between 45 and 60 and above.

Of course, one has to do research.

Q Do you hold such a status?

A I am close to it, yes.

One could say that when one has say 60 graduate hours and above, plus a master's degree that one is at the doctorate status actually except one has not done the work. It is not a requirement of the New York City Board of Education that the degree be conferred to rec eive comparable pay.

Q You indicated you were acting assistant principal when Mr. Huntley was principal at IS 33, is that correct?

A That is correct.

That year that I mentioned, when I was away, I had transferred to 192. In the Spring of that year, a

couple of friends, parents, and one then administrator in that school apprised me of the fact that possibly Mr. Huntley would be the principal, and that I should consider coming back to fill that slot.

Upon agreement of my superintendent in that district, and the agreement of Mr. Brande, I was able to accompany Mr. Huntley into his first September opening of IS 33.

Q Were you there from the inception of Mr. Huntley's inception as principal to his termination?

A Yes.

Q As assistant principal?

A Yes. No. For the two years, the line was drawn and that position was withdrawn at the end of my second year. After which I was returned to the classroom.

Q What were your functions as assistant principal under Mr. Huntley?

A The great responsibility one year, the seventh grade and the second year for the eighth year. And in addition to that I had the department of -- I had the guidance department, self-contained classes, the music department, the art department, and I believe that one of my functions was coordinating the assembly program for additional enrichment, image development, cultural enrichment, bringing in community-

based people for pupil-interest so that students could better understand themselves and identify with themselves. I would say this is generally my responsibility and in addition to that a floor assignment, a supervisor of a floor. A supervisor of a floor has the responsibility of moving through that floor and supervising teachers in their general movement and of course pupils in their general movements through that particular floor.

This included staircases coming to and from.

Q Did you have a specific floor with which you were assigned?

A My floor was number three. The third floor.

Q As I understand it, youhad general supervisory duties over the third floor and specific duties with respect to certain grades?

A Yes.

Q Now, you indicated some programs in your testimony, did you, Mr. Huntley, and other administrators, formulate programs prior to the school year in 1970?

A At the beginning of 1970 we had meetings. I presume this is what you mean. Yes, of course, we sat down and discussed the various approaches that would be made, revitalize curriculum, attempts were made to reappraise the various areas, one of them was at the behest of the principal

that reading should be stressed in each area, that minority group representation should be made present in each area, that is the selection of -- I can't remember the exact phrase but it had to do with chosing of a hero that could be a model for children, by that we should perhaps utilize some of the figures from our black background, our Hispanic background, and use these as a point of focus for students. And there was a reorganization or reappraisal of the grouping of pupils in the reading programs particularly an emphasis on having classes with para-professionals and teachers sharing in those cases where there was a need for remediation, where those students possessed with some retardation in an area particularly reading and math.

There was a development, with the help of a guidance department under my supervision and the help of the principal, an approach to self-containment, the self-contained class which purpose was to remove from the general mainstream of the school those students found to be in most in difficult with their peers and their teachers who in other words interfered with the good classroom functioning ofthe teacher and the pupils.

Those children were taken out and were moved into the open, into this self-contained classroom, and this was -- I use the term open because I want to make certain it

is understood this was not by any means a total restriction of that child, he could have the opportunity when he had developed sufficient control to be returned to the mainstream.

In that sense it was an open-ended remediation process.

We managed, I thought, rather successfully, implementing and carrying through such a program.

Q Were these programs new to IS 33 in view of your having been there in 1959?

A The philosophical approaches, the bases which were proposed were new. That's why there was a hesitation when I answered before. These classes were essentially to remediate behavior, to inculcate self-control, and the pupils were therefore returned in a continuous process of growth. Such was not the case in other years.

We had what was known as career guidance.

Q With the emphasis that you mention on role playing and model playing with role figures of Hispanic individuals, is that a new approach?

A Well, it was in a sense to familiarize pupils -- let me restate that.

To develop acceptable self-images, one of the pathologies of IS 33 is the negative image people have of themselves. It was a continuous effort on the part of the

Huntley administration to reinforce the positive, and stop putting down pupils so to speak and rather provide them with some model of success.

This is a perfectly good mental health approach.

Q Was there a negative approach or had there been inculcated into the system a negative approach of students at IS 33 over the years you were there?

MS. ROTHMAN: I object, he is leading the witness.

THE COURT: Sustained. Rephrase it.

Q What was the attitude of the administration up until Mr. Huntley appeared there with respect to students at IS 33?

A In my opinion, it was continuously benevolent paternism.

Q Can you explain that?

A Meaning there was a patting on the head and when parents came in they were told how nicely their child smelled, looked, everything else but what they had achieved academically in his classwork.

Q What kind of parent involvement was there, if any, during your years previous to 1970 at IS 33?

A IS 33 had been known for many years as a school with poor parent participation. Once again I restate

that IS33 is situated in the community whose pathologies can be -- well, compared to any other impacted urban area in the country, we evidence all of its ills. And I don't know if it is necessary to itemize them.

Much of it has already been stated. It is a matter of statistics.

2 fls

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Q Now, in the performance of your duties as acting assistant principal under Mr. Huntley, did you work -- what kind of relationship did you have with Mr. Huntley?

A I was with him continuously in his efforts to upgrade the school, both as a member of administration and a former member of the informal groups which functioned in our school.

You could not have lived with people since 1959 and not have developed an understanding of their pattern of things and behavior and retractions and some of this I was able to supply Mr. Huntley with because that was the purpose for which I had returned, which was to make meaningful the principalship with a black administrator at the helm.

Inasmuch as he was the first one appointed in District 14 and I have been in that District fighting for mobility since 1959 or '60 myself, having gone through all the processes that the Board of Education says one has to have -- I have still yet to attain such a position. So I was very much in sympathy with his cause and commitment to pupils.

I myself have lived my life very much the same way, committed to the proper training of our children. I have not yet seen this come to pass in District 14.

MS. ROTHMAN: I object. The witness is not being responsive to the question.

THE COURT: I will permit it, go ahead.

BY MR. MEYERSON:

Q Is there such a thing as accountability?

A As I understand accountability, it has to do with the establishment of whatever relationship and/or schedules or programs or methods, whatever it takes, to develop or cause to be developed an environment which is supportive of excellent education. To me, that is accountability. This includes the total package of a school, community, its District Board and its people.

Q In your opinion, what was Mr. Huntley's -- how would you evaluate Mr. Huntley in terms of accountability?

A I cannot believe that a normal human man could have given more effort of himself than Mr. Huntley exhibited. After having left school, at four or five in the evening, we frequently sat down with groups to discuss problems confronting our students, administration, and/or teachers. This we did with community-based people who were very much interested, very much involved in what occurred in our school.

Q From your observations of Mr. Huntley, was he accessible to the community?

A Mr. Huntley was totally accessible to teachers,

parents, pupils, ministers, or anyone else in the area who chose to come into that building.

I have yet to see him refuse to see anyone.

Q Were there problems at IS-33 while Mr. Huntley was principal?

A There were problems when Mr. Huntley came, there were problems when Mr. Huntley was there, and there are problems now.

Q Were these problems any greater when Mr. Huntley was there?

A It depends upon how you look at it. In some instances, because of some testimony already given with which I concur, I would say yes. There was a focusing on the disruptive, the refusal to co-operate, a withdrawing. It's inconceivable that that many students could be in the hall when you have a hundred and thirty staff being paid upwards of twenty thousand dollars a year that there can be so many people walking the halls. I cannot believe that a hundred and thirty adults could not have done a better job of containment than was done.

As floor supervisors, one of the responsibilities was to move up and down that floor and the pattern emerged and you can almost pinpoint the persons who were reluctant to restrain pupils. For purposes of strength or

weakness of a teacher, that is another matter, but in instances where persons are given ratings of unsatisfactory or needing improvement, you knew it -- much was not done about it.

In fact, at this moment some of the same people are involved in the same kind of destructive pattern regarding functions as control of pupils. Some of the same people are involved.

Q In your position as assistant principal on the third floor, you observed what you perceived to be a lack of performance and duty by certain faculty personnel?

A Yes.

Q You attribute the fires that occurred -- let me ask you, were there any fires that occurred on the third floor of IS-33 while you were an assistant principal in charge of that floor?

A Yes.

Q What do you attribute the fires to?

A In order to get in and cause a fire, one should have had a key, unless the teacher neglected to lock the door, or someone neglected to repair the broken window in a door, in which case it was hardly the fault of the administrator. These fires could take place. I am presupposing, of course, no student had a key. If a student had a key, where did he

get it? If a student got a key, why was not something done to find this problem or this key or hold accountable the person who lost that key.

Q Were there keys lost while you were administrator?

A It is my belief that keys were lost.

Q Did you attend meetings with Mr. Huntley and other teachers about these fires?

A Yes. Our regular staff meetings, cabinet meetings or crisis meetings, whenever there was a particular disruptive fire, efforts were made to remediate by posting schedules, by requesting additional personnel, by placing pupils on the fire boxes, by forming teacher groups who are supportive of Mr. Huntley to do what is called the flush through the building. These were efforts that I can reeall having been made when a crisis occurred.

Q Was there such a thing as Operation Flush?

A Yes. Wherein groups of teachers said they would like to help in solving the problem -- would at a signal which was developed by the administrative cabinet, a coded signal, which would say either there is an intruder in the building who was able to get through the unlocked doors, or a group of students moving through the building in large number. Operation Flush would go into action. Each

staircase would then be passed through and eventually the intruder would be corralled, perhaps on the fourth floor, sometimes on the third floor, or whatever.

Yes, Operation Flush was set into operation after problems developed.

Q Were all the teachers in the school involved in Operation Flush?

A No.

Q Were specific teachers involved?

A Those teachers who are more supportive, I presume, were the ones that volunteered to come out and help. Perhaps those who were free at a particular time and signed a sheet saying he would be helpful came out to help on Operation Flush.

Q Were there teachers, in your opinion, at the school who were not particularly supportive of Mr. Huntley?

A Absolutely.

Q Were there teachers in the school who were supportive of Mr. Huntley?

A Absolutely.

Q How would you compare, in degree, those teachers in support or who didn't support him?

A There were in the minority a small group, vocal, deceptive, clever, who formed a dissent faction and those

afraid to be called a -- I won't use offensive language -- well, I will use it, nigger lover. There are those who were very supportive, no matter what they would be called.

Q Did you ever have an opportunity to discuss with Mr. Rogers the operation of IS-33?

A I have never met Mr. Rogers in an official capacity, either as an acting administrator or a teacher.

Q What about the individual at the District Office who was principal for all of the intermediate schools, Mr. Hy Schiff?

A I have met Mr. Hy Schiff this year. I was in a conference with him just two weeks ago. It was in preparation of a festival. I would say this is my first experience of being in such close proximity to Mr. Hy Schiff.

Q While an administrator under Mr. Huntley, did you have an occasion to discuss with Mr. Schiff problems that existed at IS-33?

A No.

Q Were you ever at any meetings, collectively with the rest of the administrators of IS-33, where Mr. Rogers appeared to discuss the problems and make suggestions with respect to the situation at IS-33?

A No.

Q What about with Mr. Schiff?

A No.

Q Now, you've been at IS-33 since Mr. Huntley has been terminated, is that correct?

A Yes. I took a year's sabbatical to recuperate somewhat and I came back as of September.

Q You are a teacher?

A Yes. Instrumental music teacher, yes.

Q Do you have any department-wide position? I believe you indicated you had previously been acting chairman of the Music Department.

A In a sense.

Q You do have that position at that time?

A I would say it is somewhat limited in relationship to the other fifteen or twenty years.

Q Can you compare, from your observations now as a teacher in the school, the supportive service that is being provided to the present principal as compared to the supportive service that was provided to Mr. Huntley while you were assistant principal under Mr. Huntley?

A Would you define what you mean by --

Q For instance, the number of security guards while you were an assistant principal as compared to now.

A I believe there are more. There are more today than there were when we were having the difficulties.

Miller-direct/Meyerson

Q What about the number of guidance counselors?

A Yes, there are three full-time guidance counselors. During one period we lost two.

(continued on next page)

2pm gr/nc

DIRECT EXAMINATION

BY MR. MEYERSON: (Cont.)

Q What about assistant principals, of which you were one?

A Those positions were filled while I was on sabbatical and I was not considered.

Q In other words, there is a full contingent of assistant principals at the school presently; is that correct?

A Yes.

Q And that contingent is more than when you were one of the assistant principals at the school?

A Well, I was withdrawn which reduced the contingency and so was a Mrs. Rogart, which further reduced it so I would say yes, it's a complete complement of six now and it was reduced by two previously, yes, of course, there are more now.

Q Now, Mr. Huntley had indicated in his testimony at some point in time about locking doors in order to deal with some problems that resulted from children coming in and out, unauthorized visitors.

At this point in time, is there a policy which permits the lockage of these doors?

A I have observed the basement door locked, which

was always a problem in that school and was never permitted to be locked before now. Also there are four doors at the extreme end near the auditorium which were always a sore spot and I have observed that those doors are continuously locked.

I would say yes, that they are permitted to lock doors as opposed to during the administration, the Huntley administration when we were not permitted to do so.

Q Are there more teacher aids or -- not teacher aids, more paraprofessional individuals in the school at this time than when you were assistant principal under Mr. Huntley?

A I can't be certain, but it would appear so, as I think back.

MS. ROTHMAN: I'd like to make an objection to this line of questioning. This is something I'd like cleared up as far as proof. As I understand it, the sole issue that's being heard today is whether Mr. Huntley's termination was racially discriminatory.

Now, it's a fact, it's admitted that the man who replaced him is a Black. Even assuming arguendo that there was an increased staff which I am not agreeing but even assuming, this means that another Black principal has the support of increased staff.

3 Miller - direct

How does this show racial discrimination?

THE COURT: Is that an objection to the line?

MS. ROCHIAN: Or else -- an objection to the line or else I'd like some explanation of what --

THE COURT: Overruled. It is relevant. Bring it to a close, please.

Q Can you compare the decorum of the school presently as to when Mr. Huntley was principal of the school?

A Decorum, that's rather a broad question. I suppose -- let me --

Q Let me define that a little. Students in the halls, students without authorized passes in the halls?

A I would say that there are fewer students in the halls.

Q What do you attribute that to?

A I would imagine increased patrol persons, that is four people, that is, paraprofessionals. I note that there are security guards and paraprofessionals on the floors. Perhaps -- I don't know. Maybe the -- I started to suggest that perhaps the dissidents were satisfied but that can't be so, for inasmuch as we managed to have a rather major fire in September which necessitated the complete reprogramming of our building in September, I would say that they are still active.

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So I can't say that it's attributable to their cooperativeness. There is still negativism there.

MR. MEYERSON: I have no further questions, your Honor.

MS. ROTHMAN: I just have a few questions.

xxxxx CROSS-EXAMINATION
BY MS. ROTHMAN:

Q Before Mr. Huntley became principal of IS 33, did you ever work at IS33?

A Yes.

Q And didn't you subsequently leave?

A I left when I could take no more of the -- of that administration which preceded Mr. Huntley.

Q What administration was that?

A That was the administration of Mr. Sidney Klavorik.

Q Why were you dissatisfied with that administration?

A I think there has been some mention of institutional racism and benevolent paternalism before and I had the feeling that we -- we were just in another plantation except that the location was changed.

I did not feel committedness from much of the staff nor from the principal. Nor, for that matter from the district office in District 14 at IS 33. We had also

been, since 1967, the outcast school in the district. We have gotten the leavings. I myself have had to go into the basement of another school to scrounge for musical instruments.

The leftovers, but we were determined to get those instruments for our kids even though they were 30 years old and cracked and damaged; we got them.

Q When you worked at IS 33 before Mr. Huntley became principal, what was your job?

A The same as it is now, as a music teacher.

Q You were not assistant principal?

A I was acting chairman and I acted for ten years while others moved on and on.

Q Could you please respond to the question. I am just asking you if you were an assistant principle?

A No.

Q Okay.

When was the first time you became assistant principle of IS 33?

A In 1970.

Q When Mr. Huntley appointed you?

A Yes.

Q Okay. That's all I wanted to know. What did you do when Mr. Huntley left IS 33?

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A I took a year's sabbatical.

Q And after that you -- you were not rehired as an assistant principal, am I correct?

A No.

Q You stated on direct examination that you were eligible for superintendency.

What do you mean by that?

A Educated sufficiently, experienced in terms of intership performed under Mr. Huntley, which makes me eligible to take -- to apply for state licensing for -- for superintendent.

I simply have not applied. I have completed the work. And I said that I had found no need for much of what I have so there was little point in going further.

Q You mentioned on your examination that a lot of the teachers were derelict in their duties.

A Yes.

Q Wouldn't you feel that the ultimate responsibility for the dereliction of duties of a teacher rests on the principal?

A No. I feel that the teacher is a human being fully past 21, responsible, mature and assumes a job and is accountable to the Board of Education, to the State, to the child, for functioning in that capacity. No man is

responsible ultimately for anyone else.

Q I understand that. But why have a principal of school? You might as well not have a principal.

A The principal of a school is an administrator. He is not necessarily one who goes into the classroom and performs the function any more than the custodian is the one who goes and cleans the floor.

Q What is the function of an administrator, to administrate?

A Obviously to administer.

Q Don't you administer through teachers?

A No.

Q How do you?

A Authority moves from person to person, verbally or in writing. And just because one has authority does not mean that one is necessarily going to get performance. All the big corporations would not spend so many millions of dollars trying to figure out ways to get production.

Q I agree you with you just because someone has authority doesn't mean they are going to get performance. Could that have been the case with Mr. Huntley's situation?

A I cannot say why the individual teacher failed to function. I said not just from Mr. Huntley but in the many years that I've been there I have seen poor functioning

on the part of teachers; weak teachers, alienated teachers, incapable and incompetent teachers.

Once upon a time there were two persons who came into that building who were practically cadavers. They could hardly walk. And I went to Mr. Huntley and asked him, please not to let those people come back to my floor because my pupils wanted to throw them out of the window.

Now, had those persons been' of particular extractions, they could not have gotten the job. These are facts. And can be checked with the records. Those persons were in such depreciated condition, that they could hardly get to the floor and once they got there they could hardly find the desk and once they got to the desk, they couldn't find the pupils.

Q Are you alleging they only had the job because they were white?

A You may form your own conclusions.

Q I'm not forming that conclusion.

A You are asking me? Are you asking me that question?

Q I'm asking you if that's what you are saying. You almost said it and I'd like --

A I have never seen a black person hired when he lacked some skills.

Q I think I have a few more questions.

Do you know if Mr. Huntley had any suggestions about remedying the state of emergency that existed at the school?

A Yes. They were printed, scheduled, duplicated.

Q What were they?

A And in many instances -- I've forgotten the number of the exhibit, but for instance.

Q Do you remember the suggestions?

A Yes.

The fires: When there was a fire, we were called in and cautioned and we discussed methods of securing the building, of securing pupils' safety, of finding means and methods of preventing a reoccurrence and these were implemented, orders or directions were given to administrators who were directed to speak to their teachers and to husband their energies more carefully on the floors as opposed to having coffee in the cafeteria and to make sure that doors were locked, to move into the halls during the passing, to request that their teachers stand on the dotted -- the white line which runs down the middle of our hallways, to urge pupils to move with dispatch to the right and to the left.

Signs were painted on the doors, green and red, go and stop. Teachers were cautioned to remove all inflammable

from within the view or within easy access to pupils.

Q Was --

A I could go on.

Q Was this before or after 33 fires occurred during the 1972 and 1973 school year?

MR. MEYERSON: I'd object to that, your Honor.

MS. ROTHMAN: I have the exhibit.

MR. MEYERSON: I don't know that there is any -- there is any testimony that in fact 33 fires did occur.

MS. ROTHMAN: I have an exhibit that was admitted into evidence.

MR. MEYERSON: That exhibit is a statistical--

MS. ROTHMAN: We have a school log.

MR. MEYERSON: It is a statistical analysis for fires for one year. There is some question about whether or not those statistics are accurate which we would get into.

THE COURT: All right. Strike the number. Rephrase it.

BY MS. ROTHMAN:

Q Was that before or after the enumerable fires that occurred during the 1972 to 1973 school year?

MR. MEYERSON: I'd object to that, too.

THE COURT: Overruled.

MS. ROTHMAN: Are you--

THE WITNESS: Fires are not new at IS 33. They started prior to the coming of Mr. Huntley. As a part of the protest movement possibly of the late fifties and early sixties.

Ghetto people learned to use fire as a device and naturally our children are part of that environment and they learned to come in -- an entire instrument room of instruments was destroyed.

MS. ROTHMAN: I object. I don't think you are being responsive and I think you are going into sociological factors. I don't think you are a sociologist.

THE COURT: Do not argue with the witness. I will instruct the witness. You ask questions, please.

THE WITNESS: Shall I continue?

I want to tell you about another fire which preceded this period. Fires, as I said, are not new there. Neither were the fire alarms. I've almost forgotten what the question was. I'm sorry. Would you repeat it?

BY MS. ROTHMAN:

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Q You stated to me how Mr. Huntley had conferences with teachers and tried to do something about this fire situation.

And I asked you if this was before or after the numerous fires that occurred at the school during the 1972 to 1973 school year?

A When Mr. Huntley assumed the principalship of IS 33, one of the first procedures was to distribute Board of Education mandated fire drill instructions, which were sent to each teacher's room and placed on the wall; mandated fire drills were held.

Information was disseminated at faculty meetings and at cabinet functions.

Q What would you attribute then -- to what would you attribute the fact that this year I have -- let me rephrase that question. Strike that.

Have there been many fires at IS 33 this year, to the best of your knowledge?

A There have been many alarms sounding.

Q I asked you if there were fires.

A I am in the basement this year and I cannot know whether or not there is in fact fire.

But the alarms do sound. And I did mention one in the programming room which was after school hours.

No pupils were around, I don't presume and the entire programming board was destroyed and I said that our school had to be on temporary schedule until the team could completely reprogram our building.

Q I have -- I don't know if this is properly introducible at this point, but I have testimony from the school custodian that after Mr. Huntley left, the fires stopped almost completely. And I was wondering if you can give him an explanation for this?

A I would presume that as a result of proper patrols and securing, that it was no longer propitious for any fire bug to go around with a match. If there is adequte eyes to see, I could see no reason why they could occur.

Q I don't understand what you mean by --

A I'm simply saying to you that perhaps there is more security in the building because there are more people doing the kind of jobs that is necessary, if you are going to secure a building.

Q Why would there be more people doing the jobs necessary now than there were before?

A Perhaps there are more people on the scene.

Q You mean --

A Do not forget that when Mr. Huntely was principal, there was an annex, his staff had to be divided

between two schools. Now, it is consolidated. Therefore, instead of having two-thirds of a building, you've got another third there. And so, conceivably, three plus one or two plus one makes three and you've got more people doing the job.

Q You also have more students, am I correct?

A No, we have fewer students.

Q Didn't you say the annext and main building were consolidated?

A But we have a reduction in pupil personnel as a result of the consolidation and the removal of some pupils to other schools which had not occurred when Mr. Huntley was principal.

Q Is it at all possible that today you have a more effective administrator in the school?

A You're asking me to judge two friends.

Q You judged one. So I'm asking --

A The other one isn't on trial.

Q You refuse to answer that question?

A I would rather not.

Q You mentioned something about informal groups that you worked with that existed within the school.

What were these informal groups?

A Teacher committees. I was once a delegate in

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the UFT. And I have many friends among the staff and presumably still do and I don't believe that one can work in the number -- withthe number of people for a number of years and not develop some understanding if not necessarily tight social relationships, certainly professional ones and one can evaluate and interpret, sometimes not even by spoken language, but by gesture, etcetera.

These are the informal groups of which I spoke. One thing I forgot to mention is that I was the liaison person to the Community PTA for a number of years. And I got to know a number of people in the community, too.

Q I have one last question.

Am I correct in stating that you refused to assign to Mr. Huntley any of the responsibility for the terrible state, as Mr. Huntley describes in his letter, the state of emergency that existed at IS 33?

A Mr. Huntley having been the first black principal appointed in that school and in that district, bore tremendous pressures,emotionally. He was the victim of a great deal of hostility and resistance. Was under constant pressure to perform in some superior fashion.

More demanding than was demanded of any number of other persons whose names I will not call, and yes, I'm absolutely supportive of him and I refuse to condemn him in

any sense during his administration.

Q So you are saying that he was not responsible?

A No.

I do believe in the act of teaching and in the act of education and the whole educative process from pre-kindergarten to the university should be one of education.

Q You don't answer --

A I am answering it as I perceive it. Mr. Huntley received very little help in the way of orientation for the job. He told you, he was a new principal.

Q If he needed so much help and so much assistance then maybe he should not have been principal?

A The State demanded an internship for all supervisory functions. That means that the State thinks that each person who presumes to supervise in New York State should have an experience of apprenticeship.

Q Apprenticeship at a school that had as many problems as IS 33? Do you think that's fair to the community to the school, to the parents, the safety of the children?

A Does not a doctor have to go through it, too?

Q I'm not quite sure that that's analogous.

THE COURT: Well, don't have discussion.

Do you have a question?

MS. ROTHMAN: Okay.

I have one last question.

Q You said you worked for upward mobility.

A Yes.

Q Was that for any special group?'

A Upward mobility meaning my own and that of my children and that of my ethnic group. Upward mobility in our society is what I was about. This also applies to education and economics and politial involvement. Upward mobility. From poverty to affluence, from ignorance to sophistication and intellectuality. That's what I meant by upward mobility.

Q Do you think that if a person is born poor or black, they should be given preferential treatment?

A I was born poor and black and I've gotten neither.

Q I didn't ask you what you got. I said, what do you think?

A Do I think they should be given preferential treatment?

THE COURT: I think this is irrelevant to the issue before us.

MS. ROTHMAN: Then I am finished.

THE COURT: Do youhave any redirect?

MR. MEYERSON: No.

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THE COURT: Thank you very much.

Next witness, please.

MR. MEYERSON: I'd like to call Mr. Leroy Fredericks.

L E R O Y F R E D E R I C K S , called as a witness herein, having been first duly sworn by the Clerk of the Court, was examined and testified as follows:

DIRECT EXAMINATION

xxx BY MR. MEYERSON:

Q Would you state your name and present address for the record, please?

A Yes.

My name is Leroy Fredericks. I'm a member of Community School Board District 14.

Q Where do you presently reside?

A 131 Morse Street, Brooklyn.

Q By whom are you employed?

A New York Transit Authority.

Q And what position do you hold?

A Railroad clerk.

Q And you are a member of the Community School Board?

A Yes.

Q How long have you been a member of the Community School Board?

A Since 1969.

Q And is that the inception -- with the inception of decentralization?

A That was before decentralization.

Q So you've been a member of the Community School Board prior to decentralization?

A Yes.

Q What was that known as? Was that known as a community school board?

A It was a local school board, yes.

Q Now, how many minority members are there on the present school board?

A Well, there are two Hispanics and one Black.

Q And how many minority persons were on the school board when it was a local school board?

A Before there was only two blacks on the local school board and one Hispanic.

That was the local school board then. They did not function to what we considered properly sensitive to the needs of the community, since the community was almost 90 percent black and Hispanic. Moves had been made by the local people and the parents and the community to try to

increase the number of minority on the school board.

In 1969, the winter of 1969, Central Board had selected a number of community people to be members onthe local school board to increase it and make it more representative.

Q At present there are three minority board members: is that correct?

A Yes.

Q OUt of how many --- how many board members are there?

A Nine.

Q Can you describe the circumstances under which Mr. Huntley was hired by the Community School Board?

A Well, it was an opening for a principalship in IS -- no. At that time it was Junior High School 33. It later became IS 33. There was an opening there for a principal.

We, the local school board, before the community school board, we had reviewed resumes for that principalship and we had recommended --- had been recommended by the parents' association for Mr. Huntley to be the principal. At thattime we had an election coming up in March 1970, for community school board.

When the community school board became part

of education system, that recommendation from Mr. Hatch, who was president of the local school board, had recommended to the community school board to select Mr. Huntley as Principal.

Also, further action had been continued by the parents' association. Mrs. Platt was present at that time, to further reinstate -- not reinstate but instate Mr. Huntley for principal.

Q Now, as I understand it then the local community school board had agreed to hire Mr. Huntley but was not able to consumate that hiring because they went out of existence: is that correct?

A Yes.

Q Was the -- was there a perfunctory sanction of the local community boards hiring of Mr. Huntley by the community school board?

A Somewhat, yes. Yes.

Q In other words, there wasn't any problem with the community school board and they proceeded ahead and --

A I don't see that there was any problem by the locak -- community local school board at that time, because we were somewhat new as a community school board members.

I, myself, and one other was the only veterans

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of the school board members at the time.

Q Was there any resistance to Mr. Huntley's hiring once that hiring was completed by the community school board?

A No. No.

Q Was there a lawsuit brought or something challenging Mr. Huntley's --

A Well, that was by the Council of Supervisory Agency. They had instituted a suit against the Community School Board for hiring Mr. Huntley as principal.

Q And did the Community School Board defend its position?

A Yes.

The Community School Board defended its position because there was some confusion at the time. Mr. Huntley was eligible for the principalship. The IS school, the intermediary school was a new school, new concept of school at the time.

The community -- the Council CSA, they had instituted their suit based on the elementary school and the junior high school principalship. So we as community school board had felt that Mr. Huntley was qualified as a principal, because it was an intermediate school. It was not an elementary school nor a junior high school.

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Q Had it previously been a junior high school in its designation?

A Yes, it had been.

Q When was that designation changed?

A I believe it was changed in 1969.

Q So that it was the position of the Community School Board that the qualifications for an elementary or a junior high school principal were not the same?

A I believe it was a technicality in the licensing of the principal at that time. Whether an elementary licensed principal could hold a principalship in a junior school, you see.

Q Now, what is a board liaison?

A Well, that would be someone that was appointed from the Community School Board to act as an intermediate between schools and the district office and the school board.

Q Did each of the board members have a certain school or schools?

A Yes.

Q What schools were you the liaison to?

A I had I.S. 33, P.S. 257 and I.S. 49.

Q what were your functions as liaison?

A As liaison, as I explained to you before, we in -- we were intermediates between the School Board and the

principals of the schools.

Q Did you go to the school in your function as a liaison with I.S. 33?

A Yes, but at that time Mr. Botshasch, who was president of the local school board, had continued as a liaison between myself and I.S. 33.

He worked very closely with the Parents Association and Mr. Huntley. He was not successful, unfortunately, to become elected to the Community School Board, but he felt a responsibility since he had children in I.S. 33 to continue to work with Mr. Huntley and the Parents Association.

Q After he left the School Board?

A Yes.

Q Did you in your function as liaison in the Community School Board go to I.S. 33?

A Yes, periodically, but not as often as Mr. Hotsh did.

Q How often would you go?

A Well, I would go, say, once or twice a month.

Q What would you do when you went to the school?

A Well, I would speak to the parents, Mrs. Pratt, particularly. I would speak to Mr. Huntley about what was going on and the needs of the school.

Q If there were problems at the school that you became aware of, either through the parent association or otherwise, would you address yourself to them when you spoke to Mr. Huntley?

A Yes. Usually if problems occurred I would speak to the superintendent and the Community School Board about such problems.

Q Were there during the first year that Mr. Huntley was principal any problems of any sort?

A Not of any great magnitude, no.

Q Do you live in District 14?

A Yes.

Q Is that area an area approximate to I.S. 33?

A Yes.

Q You are familiar with the community and people who send their children to school?

A Yes.

Q During the second year did you have occasion to visit I.S. 33?

A Well, during the second year there seemed to be an increase of problems that was occurring there.

Mr. Huntely had expressed that he wasn't receiving the cooperation from the Community School Board. There seemed to be inability for Mr. Rogers to work with

Mr. Huntley and I had pointed out time and time again that I felt that something was amiss. We did not hold any public meetings.

After I.S. 33 -- at I.S. 33 it was the usual procedure to hold public meetings at various I.S. and junior high schools in the community.

To me it seemed to be something amiss when Mr. Rogers became superintendent that the Community School Board had had meetings in the community -- these are some of the things I had pointed out to Mr. Huntley and also to the School Board.

Q Were you ever advised by Mr. Rogers prior to May 25, 1973 that he was dissatisfied with Mr. Huntley's performance.

A He had mentioned to me -- not just to me, he had mentioned to the Community School Board that there were problems there at I.S. 33.

For instance, he had brought Mr. Huntley to the Community School Board on something that had been instituted by the teachers. He had brought Mr. Huntely to the Community School Board on something that happened with the social studies department and at this time I had voiced that to me it was unusual to be bringing the principal before the Community School Board because we had stated before that

these matters did not necessarily pertain to the Community School Board, these are matters that should have been corrected by the superintendent.

He, Mr. Huntely, then was brought to the Community School Board on a reorganizational plan. Again this is something that could be directed by the superintendent.

Q Had Mr. Rogers approached you prior to brining Mr. Huntley to the School Board and asking you to --

A No.

Q -- asking you as a board liaison to discuss the situations with Mr. Huntley?

A No.

Q Is that a proper procedure for the superintendent when --

A Well, I think that if he had found something amiss in the schools that he -- the schools that I was responsible for, that he could have approached me and I think that the superintendent and I could have gone into the school to see if we could do something about the problem.

Q Are you aware if at other schools where Mr. Rogers feels there are problems he approached the liaison before brining the matter to the Board?

A Well, I am not aware of that, no, I couldn't state that. I know that the other local school board members

and Mr. Rogers are in constant conferences together, but what they talk about I don't know.

Q Are you testifying that Mr. Rogers is more accessible and in more communication with the other Board members than he is with you?

A No. I wouldn't testify to that. I merely am stating that they were in constant companionship together.

I think that Mr. Rogers -- if I call on Mr. Rogers, that he would accept any conferences with me. But I'm merely stating he and the other Community School Board members were in constant conference together. Perhaps it was because I didn't vote for Mr. Rogers to be the Community School Board or what not, and the others did.

I think that he would confer with me if he deemed it necessary.

Q When Mr. Rogers applied for the Community School Board, were you aware of his background?

A Yes.

Q Had he been certified to become a community superintendent?

A No. Mr. Rogers --

MS. ROTHMAN: Objection, I don't think Mr. Rogers qualification are at issue here.

THE COURT: Why is this relevant?

MR. MEYERSON: It seems to me quite something that -- I think it is relevant that the person that was judging Mr. Huntley was less qualified in fact -- in fact than Mr. Huntley.

THE COURT: Excuse me, is Mr. Rogers going to testify?

MS. ROTHMAN: Yes.

THE COURT: You can ask him that. It would be best coming from him rather than from this witness.

Q Were you present at a meeting on May 24, 1973 at which the reorganization of I.S. 33 was discussed?

A Yes.

Q What that a public or an executive board meeting?

A Executive board meeting.

Q Was there an agenda?

Q What was the agenda for that evening?

A That was for the reorganizational plans of I.S. 33.

Q Was it usual to have reorganizational --

A It was unusual.

Q Who was present at that meeting, if you recall?

A Let me see, there was Mrs. Strohmenger, Brother Lally, Mr. & Mrs. Mygalski, Sally Fisher and one

other board member, either Mr. Mygalski or Joe Bonomo.

Q You were there?

A And myself, yes.

Q Was Mr. Rogers there?

A Yes, Mr. Rogers was there.

Q Was there anything else scheduled on that agenda that night aside from the discussion of the reorganization?

A No.

Q Did Mr. Huntley appear?

A Yes, he did.

Q Did he make a presentation on reorganization?

A Yes. He made a presentation that he felt that would save the district a lot of money, particularly in bussing.

Grade 6 was being bussed to the annex of I.S. 33. At that time we were having problems with the community in Greenpoint where the annex was located. The white community, they were stoning the busses, they were preventing the children from entering the school.

Mr. Huntley had felt that if he could send the 8th Grade there, they were older children, they didn't necessarily have to hire busses in the district, they would be able to go on public transporation and they would be

more capable of defending themselves against what seemed hostility in the community.

Q And he presented that?

A Yes, that's the way he presented it, yes.

Q At the conclusion of his presentation did anyone ask him any questions?

A Well, it was stated, after his presentation it was stated that Superintendent Rogers and the Community School Board had considered moving the annex back to the main building rather than considering the plan that he had submitted.

When they had stated their plan, Mr. Huntley had complied and had welcomed the idea because that way he would have the entire school under I.S. 33 and he would be able to properly supervise the chool.

Q As I understand it then, after he made his presentation the Board indicated what they and the Superintendent felt was the procedure?

A Yes.

Q Did Mr. Huntley voice any objection?

A No. In fact, he welcomed the idea.

Q Were any other comments made to Mr. Huntley at that meeting?

A I think there was a presentation of a flyer

that he had circulated in the community asking the assistance of the parents at that time. I think that was the only other thing that had been brought up at the meeting.

Q Was he present at the time the flyer was brought up?

A Yes.

Q Did he indicate to the Board why --

A Well, he had indicated that he had wanted the parents' assistance in helping to work with him in I.S. 33, which is the general thing that is done in the schools, asking parents' assistance.

Q Did Mr. Huntley leave the meeting thereafter?

A Yes, he left the meeting, yes.

Q What happened at the meeting?

A Well, to my surprise and -- Mr. Strohmenger had made a motion that Mr. Huntley should be dismissed as principal of 33, Brother Lally seconded the motion and the motion was up for discussion. I had objected to the motion and they had moved on the question.

I then voiced objection as the voting was going on because we had had no previous discussion before that he should not have been principal of the school.

Mr. Rogers had made no recommendations that Mr. Huntley should not be principal of the school, and this

is usually the procedure.

If there is some administrative problems, or even with teachers, Mr. Rogers would make the recommendation for the local school board to determine on. This was out of the clear blue sky.

(Cont'd on next page.)

Q You voiced your objections based on the grounds that you just stated?

A Yes. I voiced my objections that the superintendent had not made any recommendation and the voting stopped at that time and Mr. Mygalski had asked Mr. Rogers at that time, what is his recommendation.

Again I say that is unfair because if the trend of the local school board, community local school board seemed to be in firing Mr. Huntley, what else could Mr. Rogers do but to comply with the move that is already being instituted?

So again I voiced that as being unfair. But Mr. Rogers had said that he recommended Mr. Huntley to be dismissed, and they went on and continued voting.

Q Had Mr. Rogers spoken with you as the liaison to the school prior to that time?

A No. No charges had been made at that time, at the executive board meeting or before that.

Q Had you formed an opinion as a board member and liaison as to whether Mr. Huntley was performing his job incompetently, as a consequence of your personal observations with him and the parents association and others?

A No. He was performing his job very competently, very competently. Since I have other schools I was able to

compare the various administrations and I found Mr. Huntley to be as capable as the other schools -- as a principal -- as anyone else.

Q How many times would you say that you visited I.S. 33 while Mr. Huntley was principal?

A Offhand, I can't state exactly but I would say at least once or twice a month.

Q Was that part of your duty as a liaison to visit the school?

A Yes.

Q And you visited other schools that you --

A Yes, 257 and I.S. 49. I visited them at least once or twice a month.

Q How did the decorum, in your opinion, or the functions of I.S. 33 compare with the other schools that you were liaison to?

A It was about the same. The complaints that were voiced -- say, for instance Sally Fisher and Joe Bonomo had reported back to one executive board meeting that they had found the school in a disruptive state, they found children running in the halls and screaming.

As I pointed out to them that their schools were in the same condition.

You will always find children in the halls and

you will always find children screaming in the halls and even downstairs. So when they made the report to the executive school board I had objected to the report because, in the first place, she didn't even confer with me that she was going to go to the schools where we could have worked this out together.

Q Is it general procedure for a liaison to particular schools to go to other schools?

A No, no it is not. In fact, I was surprised when she made the report because Mr. Rais at one time had gone to one of her schools on the invitation of the Parents Association and she had objected strenuously that Mr. Rais would go into her school and didn't notify her about it. Then she in turn did the same thing to me.

Q Mr. Rais is another minority member of the school board?

A Yes, Mr. Rais is a hispanic member.

Q Let me ask you, while you were a community board member were there other occasions where principals were, for one reason or another, charged with incompetence or accused of not performing their duty?

A Yes.

Q Can you give the Court examples of that and indicate the action that the Community School Board took

against those individuals?

A Well, in 1971 the principal in I.S. 49 had been charged by the Parents Association with malfeasance -- the specific charge was that he was promoting students through the grade and also promoting them to high school where they were failing.

These charges had been levied against the principal. They had been instituted through the Central Board and it took almost a year before there was any hearing procedures.

Minority members of the board had constantly asked the Community School Board to take actions against the principal. The only action that the Community School Board seemed to have taken was a delaying action for almost a year and a half, and even after the hearing had began the principal had transferred to another district and it was requested by the Community School Board to even drop the charges, which the Community School Board and myself complied with.

So to me this was delaying tactics, an opportunity for the principal to transfer.

There was another incident, during that same year the principal of 157 was indicted for the murder of his wife. Before the indictment the parents of 157 had

came to the superintendent, Brandy, and to the School Board with charges of practically orgies going on in the schools.

The 157 principal -- the Parents Association had brought charges against the principal of 157. The School Board and Mr. Brandy took no action on the charges that were levied at the principal. Then about a month or two later an indictment had been brought against the principal for the alleged murder of his wife.

The parents again were incensed and they asked the principal be removed from the school. The principal was promoted, an unusual statement, but the principal was promoted from 157 and brought into the district office as principal in charge of the entire district. It was something that aroused the community and the Parents Association, how could such a thing happen? But the Community School Board and the superintendent did it.

Q In the previous instance that you talked about, was the individual given an option to transfer out of the district rather than to proceed ahead with the hearing?

A I don't know whether he was given an option or not. The only thing that I knew was that the superintendent and the School Board gave him a promotion.

Whether he was given an option -- I don't see a reason why they would give him an option to transfer when

he is eligible for promotion under those circumstances.

Q I understand that. I am talking about the previous incident, not this incident.

A Oh, the previous incident with I.S. 49? Yes, he was given an option.

Q What were the race of those individuals?

A They were white.

Q Were there any other instances where persons were given options to resign rather than face a termination, while you were a Community Board member?

A None of the principals that I know of, no.

Q What about a teacher, probationary teacher by the name of Cruller?

A Yes, there was a teacher brought up on charges and she was given an option to transfer out of the school, yes.

Q Rather than to be --

A Rather than to be -- to have charges brought against her, yes.

Q What was the race of that individual?

A The Community School Board allowed her to transfer and she did.

Q What was the race of the individual?

A She was white.

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Q That individual was a probationary teacher?

A I believe so. I wasn't quite sure, but I believe she was a probationary teacher.

Q Has the Community School Board terminated any other principal beside Mr. Huntley?

A No.

Q What is the general procedure -- has the Community School Board ever terminated a teacher?

A Well, just recently, yes. Just recently we did terminate a teacher.

The teacher was brought up on charges and I didn't attend that public meeting, I don't know how the voting was, but I believe that the teacher had been terminated, yes.

Q When a vote takes place at a public meeting, is it a perfunctory vote in terms of the decision to terminate, it is made and at the public meeting a vote --

A Yes. I may point out too that before the public meeting there was thorough discussion of the charges being brought up against the teacher.

There was a discussion back and forth with Mr. Rogers and the Community School Board about the charges.

Q Was there such a discussion with the Community School Board and Mr. Rogers about the competence or

incompetence of Mr. Huntley, prior to the public meeting?

A No. That's why I pointed out with the teacher there was this constant dialogue going back and forth. With Mr. Huntley it was not at the table. Very surprising.

Q Was the procedure utilized at the public meeting in June 5, 1973 where Mr. Huntley was terminated different than the procedure normally employed by the Community School Board when it terminates somebody from employment?

A Well, the charges wasn't officially presented to Mr. Huntley before June 5.

I was able to get a hold of a copy of the charges so that he would be apprised of what was happening, but there was no presentation of the charges by the School Board or by Mr. Rogers.

Q Is that normal procedure?

A No, that is not normal procedure.

Q What is the normal procedure?

A Normal procedure would be that if charges are being instituted against anyone that they would be able to see a copy of the charges. They would be able to perform some sort of -- I guess legal steps to make a presentation agains the charges.

Q Where would they make that presentation, would

it be at a public School Board meeting or at an executive session or at a special hearing?

A Well, I feel that they would make it at an executive board meeting so that we could make some determination on the charges being made against the individual.

Q Did the teacher that you just mentioned that was terminated have an opportunity to make a presentation?

A I don't know whether or not -- I am presently attending Brooklyn College, I am going to school at night and I have not been able to function in full capacity of school board members as I previously did.

Q Was Mr. Huntley in fact hired because he was a black individual?

A I feel that he was hired because he is a black individual. He was hired also because he was a capable individual, but he was hired because he was a black individual.

Q You feel in your opinion as a Community School Board member, and based on your knowledge of the operations of the Community School Board, that Mr. Huntley was treated differently than other administrators?

A I don't believe Mr. Huntley was at all treated fairly as a principal of a school.

Q Was Mr. Huntley the first black principal in

the district?

A Yes, he was the first black.

Q Was he replaced by a black individual?

A Yes. He was replaced by Mr. Pretty, who is a balck individual.

At the time that we had the public hearing on I.S. 33, I had voted against Mr. Pretty as principal of I.S. 33, and I had voted for a white individual to be the principal of I.S. 33. It may sound unusual, but at that time, since I was a school board member, I knew what was happening in the district office. Mr. Pretty, he was the coordinator of straight urban aid, which was a management, a policy-making position.

There was an opening for a promotion in the district office at that time for an officer of disbursable funds. The district office was prepping a new and inexperienced individual for this position that I felt that Mr. Pretty was capable of, and that's the reason why I did not want to see Mr. Pretty parallel move over to I.S. 33 when this position would be open -- in fact, it was open because Fred Zahn, who was the officer of the disbursable fund, was moving out of the district.

Q Who filled that position at the office of disbursable funds?

A The title had been changed and it was the coordinator of Title 1. Mr. Spiegel, he was a white individual.

Q I take it the office of disbursable funds involves the disbursal of money?

nsw

A It was a broad policy-making position. In fact, it was a position almost second to the Superintendent, and I felt that Mr. Pretty was very qualified for that position and he would be able to move up in the district office rather than moving on the side and -- to me, the whole structure, if I may just take a moment to point out, the whole structure was a maneuver, first to move Mr. Huntley from the principalship, done very rapidly; secondly, to move Mr. Pretty out of the district office and into Mr. Huntley's position while they are prepping the opening for the office of disbursable funds.

Along with Mr. Pretty, another black individual was moved out of the district office, Mr. Wicke.

Now, if they removed -- the school board and the Superintendent had removed the only two black individuals in a management position in the district office and moved them to a narrow confinement of I.S. 33.

All of this was going on at that time, which was quite visible to me. I had pointed this out to Mr.

Huntley, how the community scho[illegible] -- how the Community School Board and Mr. Rogers was doing the manipulation at the time, and things fell into place.

Now we have a white person who took Mr. Pretty's job, and we have a white person who took over Mr. Hank Whitney's job.

(Continued on next page)

MP:GA
T4PM

Q When, if you recall, did school end in 1973?

A When did the school --

Q When did the school terminate, the students finish?

A It was in June, 1973.

THE COURT: Excuse me. How will you be?

MR. MEYERSON: I am almost finished.

THE COURT: You can take as long as you like.

MR. MEYERSON: I only have a few more questions.

THE COURT: Then we will take a recess when you finish.

Q Is it your opinion -- In other words, Mr. Huntley was terminated prior to the end of the school term, or almost at the end of the school term?

A Yes.

Q Was that unusual procedure, to terminate someone --

A As I explained to Mr. Huntley, Mr. Huntley was up for tenure at that time, in 1973. As I just explained here, it was a maneuvering, Mr. Huntley had posed a threat to me -- He had posed a threat because he had the sympathy of the parents, he certainly had the vote of the Community School Board, he was qualified. In fact, in 1972. along with Mr. Rogers, he had submitted his resume for Superintendent. Again, you could

see the agitation that Mr. Huntley was causing, and the black individual moving up in District 14.

Q You mentioned that Mr. Huntley had been called before the School Board a couple of times, is that correct?

A Three times.

Q That includes the last time?

A Yes.

Q What were the other two times?

A The other times, several teachers had appeared to Mr. Rogers about some of the things that were going on in the school. I don't know how many times the teachers [illegible] with him, but that one time the teachers came with Mr. Huntley before the Local School Board, and they had said that Mr. Huntley wasn't capable as an administrator of the school. They seemed to have had some confrontation with him on administrative matters.

Q The other time --

A That was with the Social Studies teacher.

Q That involved the gay members in the school?

A Yes. They had innovated a program where they would have a -- the various leaders, youth leaders in the Distric come into the classrooms and made a presentation as to what they are doing in the community. Then, an Officer from the Police Force or Fire Department, or some civic person would

come in, and they would tell of their functions in the community. To me, I thought it was a very good instructional plan.

Q While you have been a Community Board Member, have any other principals been brought up before the Community School Board for such things as curriculum in the school?

A No, none whatsoever.

MR. MEYERSON: No further questions.

THE COURT: We will take a short recess.

MS. ROTHMAN: I have cross-examination.

THE COURT: How long will your cross-examination take?

MS. ROTHMAN: Fifteen minutes.

THE COURT: I think we ought to take a break now.

MR. HOFFMAN: Mr. Reyes, the other member of the Board, has to leave for a meeting. His testimony will be cumulative to Mr. Fredericks. If you are willing to -- Mr. Reyes is the other minority School Member, do you want to stipulate as to him?

MS. ROTHMAN: How would we proceed?

THE COURT: You can just stipulate if he was called and testified, he would testify essentially the same way as the present --

MS. ROTHMAN: I will have to consult --

THE COURT: I haven't finished.

-- witness, without stipulating that his testimony is believable.

MS. ROTHMAN: I want to discuss it with my clients.

(A recess was taken at this time.)

MS. ROTHMAN: May I start?

CROSS EXAMINATION

BY MS. ROTHMAN:

Q Mr. Fredericks, you keep mentioning the fact that no charges were instituted against Mr. Huntley.

A Yes.

Q I don't know if you are aware of the fact that under the Education Laws of the State of New York, in the case of an Acting Principal, no charges are required to be instituted.

A The Hearing Officer has pointed that out.

Q I have a letter that was introduced into evidence. I have a copy.

Do you have the number?

It's Defendant's Exhibit D, from the Chancellor of the Board of Education to Mr. Huntley specifically explaining to him that Section 2590(j)(7) of the Education Law does not apply to Acting Supervisor positions.

Do you have any experience as an educator?

A No.

Q Are you aware of the fact that since Mr. Rogers became Supervisor of District 14 the number of minority people in supervisory positions has increased from two to fourteen?

A Yes. I am not completely so, but yes, I am aware of the fact that we have had an increased number of supervisors of minorities.

Q I would like to discuss two incidents that you mentioned. In the case of the Principal of I.S. 49 and 157.

In the first place, are you aware of the fact the Principal of I.S. 14 was tenured?

A Yes.

Q You mentioned on direct examination this year Mr. Huntley was supposed to receive tenure. Under the laws of the City of New York, an Acting person can never receive tenure. I don't know if you are aware of that.

A No.

Q Mr. Huntley could not have received tenure, even if he had been a Principal for forty years. This was prior to the Chance Mercado --

MR. MEYERSON: I object.

THE WITNESS: She is making a supposition.

MS. ROTHMAN: I am asking if he is aware of that.

Q You mentioned that the fact the Principal of I.S.

49 received treatment, if not better than was Mr. Huntley received, you are aware that the Pincipal of I.S. 49 has tenure?

A Yes.

Q A tenured Principal cannot be removed unless brought up on charges?

A Yes.

Q The Principal of I. S. 49 was brought up on trial with charges?

A After a year and a half.

Q What caused this delay of a year and a half? Could it be the Central body?

A No, the delay was the inaction of Community School Board and Superintendent Brandy to institute the charges that were brought up by the Parents Association.

Q What do you infer, if anything?

A To me, it is preferential treatment.

Q They finally did bring him up on charges. What did the delay show?

A First, preferential treatment. Secondly, they allowed at least a Principal to review the charges, and as he successfully did, he made a transfer to another District. He was able to avoid charges, and the Community School Board, after finally a year and a half had voted just to dismiss the

charges altogether. To me, that is preferential treatment.

Q You say, in the case of I.S. 49, the Community School Board voted to dismiss the charge?

A Yes.

Q Was that because of another District wanting to take him?

A He already transferred to another District.

Q Is it not a fact that other District asked that he assume a position there?

A Yes, another District said he could assume a position there.

Q In effect, they were able to get rid of him in that manner?

A No, no. We didn't get rid of him. He could have defeated the charges, you see. So, you see, we didn't get rid of him. I think we showed preferential treatment in allowing the delay to go on for a year and a half.

That was the difference between he and Mr.Huntley, which only lasted a matter of a few weeks.

Q Isn't it a possibility that in Mr. Huntley's case the Community School Board or Superintendent, prior to the June 5th meeting, wanted to dismiss him, and decided to wait and give him a chance?

A No. On the May 24th meeting, the Community School

Board had dismissed him. It was only left up to the Chancellor that he was reinstated until the public meeting.

Q Is it conceivable that possibly ten months earlier they might have wanted to dismiss him, and decided to give him a chance?

A If these things weren't brought to my attention, anything could be conceivable.

I don't know what could be or could not be conceivable ten months before.

Q You are inferring certain things. Because of the delay in the case of I. S. 49. If these things weren't brought to your attention, you weren't told there was an intentional delay, you are just inferring it?

A Yes.

Q And in fact, the Principal of I. S. 49 was brought up on charges of the Community School Board?

A No, the Community School Board -- The hearing was before the Central Board. The Community School Board didn't institute any action of the Principal of I. S. 49.

Q Who instituted the action?

A A hearing instituted by the Central Board.

Q I assume the Central Board is empowered by law --

A Charges were brought by the parents. The parents had brought charges against the Principal.

Q If parents bring charges against the Principal, who is the body empowered to hear the charges, the Central Board?

A And the Community School Board. But the Central Board had instituted a hearing to view the charges brought up against the Principal of I. S. 49.

The hearing wasn't even completed when he had transferred to another District.

After the transfer, then the Community School Board took action, which they could have taken before. The Community School Board took action to dismiss the charges.

We could have reviewed the charges ourselves and come to a determination, but we didn't.

Q Returning to the Principal of 157, are you aware of the fact he, too, was tenured, and could not be dismissed without a trial on charges?

A Yes.

Q Are you also aware of the fact that an indictment is not a sufficient basis for dismissal, an indictment is not in and of itself a finding of guilt?

A No. The charge levied against him wasn't a charge of his action after school hours which of course is important as a Principal, the charge levied against him was brought by the Parents Association, according to his conduct in the school.

His conduct in the school was not one of a --

Q Legally, the Parents Association cannot -- I am talking about the charges that held pursuant to the Education Law 2590(j), those trials and those charges, the Parents Associations have nothing to do with that.

A Well, I am saying --

Q It's just an informal --

A The parents levied charges against the Principal in the school, 157 --

Q But my point is, legally, before you can remove a Principal that has tenure, he has to have a full trial?

A Yes.

Q On the certain charge.

A Yes.

Q The Parents Association is not the body empowered by law to initiate these charges?

A Which charges are you referring to?

Q The charge against the tenured teacher.

A You are saying the parents did not have the right to bring charges against a Principal? Yes, and they did.

Q My point is this --

A They brought --

Q The Community Board has the power to formally initiate the charges, and not the parents.

A They brought the charges -- The Superintendent and the Community School Board -- which charge that the Community School Board didn't even consider.

GR fls

(continued on next page.)

5PM
gr/nc

CROSS-EXAMINATION

BY MS. ROTHMAN: (Cont.)

Q They -- what were these charges based on?

A Based on his conduct in school.

Q They did transfer him to district office? They did take him out of the school: am I correct?

A Yes. They promoted him to the district office It's not just considered a transfer but a promotion. Because then His title at that time became principal in the district office over the entire district.

Before he was just a principal at 157.

Q Are you aware of the fact that the night before the guilty verdict came down in the case of the principal of 157, he was told by the community superintendent that even if he were acquitted, he would be brought up on charges?

A Yes. And that was over a year that the trial was going on and the night before the jury had come to some consideration, then Mr. -- Brother Lally had called him up and told him that he could not be accepted in the school the next day.

But you see, again,there was not any charges levelled against the man. I think that was unfair. If we had levied charges against a man, instituted a year prior from -- based on what the parents' association had said,

then we could properly dismiss the man if we felt that -- his conduct in the school was improper.

But we waited all this time, that a trial was going on, until the jury had retired and then we called him on the phone, the night before the jury comes in to decision, and said he is dismissed, don't come back to the school.

Q Couldn't the possibility have arisen?

THE COURT: I think you've gone on this point. It is a collateral point.

MS. ROTHMAN: Okay.

Q Well, the reason I went into this so far is that in your affidavit and your deposition you state that this was the basis of your allegation, that the action of the Community School Board in terminating Mr. Huntley was racially discriminatory.

A Yes.

Q And --

A Yes.

Q Do you have any other basis for that allegation?

A Well, as I explained before, as a member of the Community School Board I was able to see the entire picture of what was going on as far as the blacks in the district.

You had pointed out that the School Board and Mr. Rogers had employed a large amount of minority

representatives in the community.

That again, was Mr. Nixon's argument, too. That he had employed a lot of admirals and generals but you see, you have to look at the entire picture. The entire picture was--you saw what Mr. Nixon was. The entire picture you could see what was going on in the district office. No blacks, no blacks are in the district office.

There were only a few blacks, policymakers, too, in the district. True, we have had a number of, say, vice presidents. We have chairman of various departments who are minority but you see, they do not set policy. They do not set the tone of the quality of education.

Q What about principals?

A We have two principals, yes. We have two black principals in the district. They are the ones who--they set the tone, they set the standards for the school. I am not arguing that there weren't a number of --

Q I just want to ask you a few questions about certain things in your deposition. On page 5 of your deposition I asked you questions about your affidavit. The one I showed you that you submitted in support of the motion for summary judgment.

A Yes.

Q And paragraph 19 of your affidavit you state

that the white board members never wanted a black person to be principal of IS 33?

A Yes.

Q And when I asked you what the basis is for this statement, you say that there was a delay in convening for the principalship of IS 33 and this had racial implications.

Now, I don't understand how a delay had racial implication. Delay in choosing a principal.

A At the time the parents of IS 33 and the community had instituted some sort of action, they call it revolutionary action or whatnot, but they had sort of forced the decision of the community school board to hire Mr. Huntley as principal.

Such a decision at this time now even if you had a revolution in the community would not change the community school board.

You see, we were new. We just came into office in 1970. We had in front of us an upheaval of blacks and Puerto Ricans making demands at that time for black representation, for Puerto Rican representation.

We have never had a principal in the district at all. 1970,and we have never had a black principal or Puerto Rican principal. So you had this-- bodies of people who are making the demands on the new school board and

they adhered to the demand at that time, which they wouldn't do at this time and the Superintendent Bradley, he was away.

The leader of the district was away, so the Community School Board complied.

Q You do state on the same page that the delay could possibly have resulted from the fact that there was a change in Community School Boards, the new Community School Board took office.

Did you mean by that that procedurally it took them time because it was a new board and they had to --.

A When the school board came into office in March, the delay was -- to me as I view it, the delay was a manipulation, if possible, not to have Mr. Huntley as principal and it went on until the summer of 1970.

There was no other qualified individual better than Mr. Huntely to be a principal and yet still we delayed all that time before we instituted him as principal of IS 33.

We could have had that much sooner but what I am trying to point out is certain things are delayed and certain things are acted on quickly.

Q You don't think it's a little bit of a strong inference to infer from delay racial discrimination?

A Not after looking at the entire picture.

Q I have a few more questions. On page 17 of

your deposition, when I questioned you further about the alleged racially discriminatory policies of the defendants, you mentioned how one of the social student teachers had innovated a program and the superintendent called Mr. Huntley and the teacher down before the school board.

A Yes.

Q Was this the program to bring organized gangs into the school?

A All right.

I'll say yes. When you say organized gangs, you are talking about youth. When you say organized gangs, there is a difference, you know.

Q Organized youth gangs.

A Mafia action. These are kids and -- in the community who banded together for social reasons, sports, various reasons. They are not organized gangs.

Q Would you call -- youth gangs?

A Yes, these are youth gangs. Yes.

Q How many times during the 1972 to '73 school year did you actually visit IS 33?

A At least once or twice a month. As I said before, Mr. Ponce Hatch, he had visited the school quite frequently. I visited infrequently, based on relationship Mr. Ponce Hatch and I had. We were neighbors. We lived

right next to each other so he had worked very closely with the parents' association in having social affairs in the community to raise money.

These things I participate along with him but he initiated these particular moves. We went into the school to find out some of the problems that--

Q He went in?

A Mr. Huntley -- I mean, Mr. Hatch went in to work with Mr. Huntley in the schools, to find out some of the problems. Then he would report back to me, because we saw each other daily. He went in more often than I did.

Q Okay.

In -- what really concerns me is that in your affidavit on paragraph 19 you make this very strong statement that the action, in your opinion, the actions of the defendants in terminating plaintiff was racially discriminatory. Other than the two instances of the white principals who had tenure were terminated and a dela., is there anything else where you find racial discrimination?

A Well,there was an incident that I didn't mention before. There was an incident with a teacher that had been transferred from one school to another. There were charges that was -- a charge that was brought against him because he had abused one of the students. And --

Q What's the name of the teacher?

A He was a teacher in IS 49. Mr. Sorrow, yes. He was allowed to -- when the charge of this abuse of the student was brought against him, he was allowed to be transferred from one school to another school.

These the -- again this preferential treatment and the teacher, by the way, was white.

Q And is that the basis for your allegation that Mr. Huntley's termination was racially discriminatory?

A That's part of the basis.

Q Do you have any other basis?

A Well, otherthan the things that I have mentioned before and the things that have been mentioned here, the way that Mr. Huntley was repeatedly brought into the district office, about something that could have been handled on an administrative level by Supt. Rogers.

Q Does that mean --

A Mr. Rogers did not go into the schools to observe Mr. Huntley as a principal. Or work with faculty if Mr. Rogers thought there were any problems.

Instead, he would bring Mr. Huntley before the school board. The community school board did not hold any public meetings at all in the black community, IS 33 was located in the black community. THey did not hold any public

meetings during the time that Mr. Rogers was superintendent of the Community School Board, not until the winter of 1974, when Mr. PUrdy became principal of IS 33. So all that time we did not show any support whatsoever to Mr. Huntley and other things that were mentioned here today.

Q Even if what you say is true, I fail to see how that --

THE COURT: No. I'll make that decision.

Do you have a question?

MS. ROTHMAN: No more questions.

THE COURT: Any redirect?

MR. MEYERSON: Just a couple of questions, your Honor.

THE COURT: Yes.

REDIRECT EXAMINATION

BY MR. MEYERSON:

Q Prior to MR. Huntley's termination, Mr. Fredericks, did the school board collectively or you, individually, talk to Mr. Rogers about giving him some chance because he was failing to perform his function adequately as principal at IS33?

A Chances for what?

MS. ROTHMAN: Excuse me. You said Mr. Rogers and Mr. Huntley --

A Give him some chances. There was no -- no allegations or charges brought up against Mr. Huntley, to give him a chance for what? You have to make that clear.

Q You just testified to the point about holding meetings in IS 33.

In your opinion, is it important to hold meetings in IS 33, school board meetings?

A Yes.

I feel that -- and we have held a number of meetings in various junior high schools and IS schools. It allowed the people in that immediate community to come into the schools and voice whatever opinions that they may have, educationally, rather than having to travel over to another area.

It also would show that particular community that we as members of the community school board are concerned with what is going on in their particular area because a school is not something separate from the community.

A school is part of the community and we -- we as a body never visited the school at all. I think that it influenced certain racial overtones, as far as the Community School Board is concerned.

Q Does it help the principals in holding meetings

in the various schools?

A It presents an alliance with the community school board and the principal. When we go into a school, the principal is there, the community school board is there and the parents in that particular immediate community is there and it shows a certain alliance between the different groups.

Q Is there a machinery available for terminating tenured and non-tenured employees in a school district?

A Well, there is a machinery available for tenured employees but there is no machinery available for non-tenured employees.

Q So is it fair to say that it's easier to -- to terminate a non-tenured individual?

A Well, it is easier to terminate a non--- but the point that I'm -- I would like to emphasize here, that tenured or non-tenured, it is a way to go about doing something. The man was constantly humiliated before he was terminated from his job and the way that they terminated the man, I don't think -- whether we have a procedure or not, it is not something that you would do.

You invite a man to a meeting to discuss something else and before you even discuss his termination, you decide that at that time that the man is terminated. The man is a professional man. Whether he's black or white. The

man is a professional man. He should at least be given -- granted the dignity to be faced with some sort of allegation. And this is what I base it on, racial overtones.

Q Did the school board invoke the machinery that was available for tenured personnel when it was concerned with the malfeasance of white personnel?

A Yes.

Q It did invoke that machinery?

A Yes.

Q Did it complete the machinery?

A Well, he transferred before --

THE COURT: I think we have gone into that. We have sufficiently discussed that.

A Yes.

Q Just one last question.

MR. MEYERSON: I'd like to have this document marked for identification.

THE COURT: Mark it.

MR. MEYERSON: As a supplemental.

THE CLERK: Plaintiff's Exhibit 19 for identification.

xxx (So marked.)

THE COURT: What is it? Describe it, please.

MR. MEYERSON: Plaintiff's Exhibit 19 for

identification is a -- the letter to the Chancellor, President and members of the Board of Education of the New York City School District, unsigned copy of a letter from Ada Pratt and Leroy Fredericks.

That's what I wanted marked.

THE COURT: No. Was that given out in accordance with my --

MS. ROTHMAN: No.

THE COURT: -- pretrial order.

MR. MEYERSON: No.

THE COURT: Then you can't use it. It's too collateral anyway. We have the witness himself. There is no point in bringing out that kind of record. The witness has testified under oath. It is much more valuable.

MS. ROTHMAN: I have one last question.

RECROSS-EXAMINATION

BY MS. ROTHMAN:

xxx

Q Do you recall any complaints made to the community school board by teachers of IS 33?

A Yes, I had mentioned that the teachers -- they must have come to Mr. Rogers prior to coming before the Executive School Board, because Mr. Rogers had mentioned to the community -- the Local School Board that he's inviting the

Community School Board and Mr. Huntley and the teachers to discuss this matter.

THE COURT: That's repetitive. I won't permit it to continue.

Thank you very much.

THE WITNESS: Okay.

THE COURT: What are you going to do about Mr. Graves? Are you going to stipulate?

MS. ROTHMAN: Could I possibly let you know tomorrow? I can call my client, who left. Would that be all right?

THE COURT: All right.

It's usually best to stipulate because the only thing he can do is either repeat what this witness has said or bring out something that the witness has not said and in the second case it's adverse.

MS. ROTHMAN: Okay. I'll stipulate.

THE COURT: Stipulation is accepted.

Does that represent your case?

MR. MEYERSON: No, your Honor. We have two more witnesses.

THE COURT: All right.

We are going to have to take a recess because I have something in chambers for just a few minutes.

MS. ROTHMAN: Your Honor, I have one witness that I have to call today. Take that into consideration Because he is leaving the country.

THE COURT: All right. We'll take care of it. I have a chambers problem, however, waiting for me. I'll be back in five minutes.

(continued next page.)

pm

MR. MEYERSON: Your Honor, the witness we would like to call is one Reverand Stokes. He was not on the list submitted to Mrs. Rothman, and it's a witness that we have just become aware of.

THE COURT: What is he going to say?

MR. MEYERSON: He's a parent that has children there now, has had children there prior to Mr. Huntley and when Mr. Huntley was there. He's a minister in Brooklyn --

THE COURT: He'll have to be on Tuesday and not today.

MR. MEYERSON: We will put him on now for about five minutes of testimony.

THE COURT: Can he testify in five minutes?

MR. MEYERSON: I believe five or ten minutes, yes.

MS. ROTHMAN: Is that fair if it wasn't in the pre-trial order?

MR. HOFFMAN: We can do it on Tuesday.

THE COURT: Where is he?

MR. MEYERSON: Reverand Stokes.

THE COURT: Would you mind coming back Tuesday, Reverand? They hadn't planned to call you and the defense counsel has not investigated sufficiently to question you.

Thank you.

MR. MEYERSON: We have another such witness, John Steele.

MR HOFFMAN: He left the school and that is why we didn't know about him.

THE COURT: Tuesday.

MR. MEYERSON: We have another witness.

THE COURT: This is your last witness today?

MR. MEYERSON: Yes.

Can Mr. Hoffman proceed with the questions?

THE COURT: Yes.

C A R O L I N E H U P E , called as a witness, having been first duly sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. HOFFMAN:

Q What is your present occupation?

A I am a school teacher.

Q And where do you teach?

A School of St. John the Evangelist.

Q And in the community of where I.S. 33 is located, were you involved -- what was your involvement in that community, if any?

A Well, I was part of a voluntary group of people in the Williamsburg community, where I live also,

relating to education as an educator, I am very concerned about education and myself, others in community organizations and parents had a volunteer group which we called the Community Local School Board.

This was before -- when they used to have the local school board, so we had styled ourselves a community group interested in education. The people from various schools would come to us with concerns about their schools, and that's how I got involved with what was happening at 33.

Q And generally, is the function of this organization -- is it called the Community Local School Board, is that what it was called?

A Yes, right.

Q Was it operative during the years 1970 to '72 or '73?

A Yes, it was.

Q Through '73?

A Right.

Q And just generally, what were the -- what was the function of this local -- Community Local School Board?

A Well, what would happen is if -- say for example at 33 when they needed a principal, they would come and meet with the -- this particular group and say that, "We need a principal and we would like a person with certain

qualifications and so on, and we would help them to try and find someone to fill that position.

Or, if there were other problems in school, either around an individual or around the whole school, this particular group, as a community organization -- it was really a voluntary organization, would relate to that problem and try and help.

Q Would this Community Local School Board also be a sounding board, so to speak, or a place where you could receive feedback of problems in the various schools?

A Right. In fact that's mostly what happened. Mostly problems in the schools.

Q And were you involved in the hiring of Mr. Huntley in any way, at I.S. 33?

A Yes, right. We helped to look for someone to fill the position when it became -- you know, knowledge -- brought to our attention that they needed a principal. Then when Mr. Huntley was suggested, he came to the community group and was interviewed by us. He answered, you know, those kinds of questions that would be asked by a local school board or parents or anyone interested in having a qualified person work for them, a school.

Q And during the period 1970 to the summer of 1973, did you receive any negative feedback about the operation

of I.S. 33?

A Not to this particular group, no. It seemed as if, after they got Mr. Huntley to be principal, that they were happy and it was more a positive thing because we were instrumental in his getting the position at 33. We were very happy. We did watch in a sense, because we were very concerned that the school improve and we felt that it had, and parents never came back with anything negative. It was more an informal positive good feeling.

Q When was the first that you learned that Mr. Huntley's job was in jeopardy or that termination proceedings may be brought against him?

A Oh, I'd have to say towards the end of May, the beginning of June. I don't remember when exactly I found out the news.

Q Would that be '73?

A Yes.

Q Would that be around the time he was being terminated?

A Right. He was terminated the end of May -- it was shortly thereafter, it was through word of mouth.

Q Did you attend a meeting -- did you attend a public meeting at which it was voted that Mr. Huntley would be terminated?

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A Yes, I did. That was on June 5th and it was held in an all white community. This is Greenpoint, and I think this is very significant since you are talking about racism, because here before Mr. Huntley is principal of a large school in a black and hispanic community. The annex is located in the white community of Greenpoint and that's where the local school board chose the site for the meeting to fire Mr. Huntley.

Q If I can just interrupt. You said the annex was in the white part of the community?

A That's correct.

Q And which children were being bussed into the annex, do you remember the racial --

A Yes, the children who were bussed were black and hispanic. They were children from the same community as I.S. 33, Tompkins Avenue and around Tompkins Houses and Sumner Avenue.

Q Getting back to that meeting --

A Right. So letme just say this. At the meeting it was very difficult for parents to go over ther because you'd have to have some kind of transportation so the best thing that could be arranged is the Parents Association did get a bus or two and several parents then rode over on the buses to the meeting. That's one part.

The other part is that the composition of the meeting was predominantly teachers and supervisors from the district, not even just from 33, but from the whole district, to set up this spectacle, it was not --it was very unclear as to -- just a formal public meeting so that they could fire Mr. Huntley publicly, because that is what it was supposed to be, but yet there was somewhat of an aura of a hearing established because the PA president was allowed to speak and -- first of all, a few people from the community spoke, not Mr. Huntley, he wasn't allowed to speak.

Q Were charges read at that meeting?

A Right. The letter was read, this kind of general thing, I really don't even know specifically, it was kind of a general indictment, in short.

Q Who read the letter?

A I don't remember. It was the secretary, probably, I think it was, of the board, probably Strohmenger.

Q After the letter was read was Mr. Huntley's responsed elicited in any way?

A No, it was very unclear as to whether it was a hearing or what was supposed to be happening. Actually what they came out to do was to fire Mr. Huntley publicly, I assume. But they gave the people in the audience somewhat of a feeling like this might be a hearing, and this is a

time to express your feelings, and there was just a few minutes allotted to a few speakers, and they limited the time and people became very frustrated, those parents who were there, and community who were very concerned and very confused, really, by the whole issue because it all happened this one, two, three and then out, and people were still in the throes of confusion.

But anyway, a few people spoke, myself included, and then they terminated the speaking time and then it was bedlam and the board supposedly proceeded to vote through this bedlam.

I didn't hear, you know, the roll called or whatever, it was all -- the best I can describe it was bedlam and the frustration because people thought they were there to have an opportunity to refute these general charges, or whatever, and this was the first time that most of us in that audience had heard those charges.

Q When you mention the word "bedlam," do you mean that there were people who were vociferous regarding supporting terminating Mr. Huntley?

A Right. It was, to the best of my knowledge, it was vociferous in support of Mr. Huntley. I didn't hear any sounds from those who were there to see him terminated because they knew it was in the bag, and it was our

frustration in trying to have some kind of hearing, and the frustration at the unfairness of it all.

I would like to point out one other thing in regards to this, in terms of it being, in my opinion, the most blatant racism that I have ever seen.

Mr. Huntley is a professional, called down to this meeting, people who respected him, who worked very hard and who were pleased with his performance in the community, and parents and so on were at the meeting, and he was treated as if he were nothing, as if he were nobody, as if he weren't even there, and he didn't stand up and shout and scream, as we did to be heard, as many parents did.

And I might add that the PA president, Mrs. Pratt, who fought very hard -- and I'd like to refer to what happened subsequent to the meeting -- to support Mr. Huntley, who sacrificed much of her time and energy to first see him become principal and then later to support him as he was being attacked, is out now because she's just like given up in frustration in the face of injustice, whether it was at the local board level, the central board level, it's hard to stay out there fighting when, you know, what you say seems to mean nothing.

Q Mrs. Pratt was the president of the Parent's Association?

A Yes. Very strong leader. She spoke at that meeting very strongly in favor of Mr. Huntley and after that worked --

Q Just briefly describe what action the community took subsequent to the vote on that termination.

A The parents initiated a boycott and --

Q That was after June --

A After June 5th, right, and closed the school from June 5th until the end of the term in support of Mr. Huntley and showing their, you know, upset with and discontent with and refusal to accept the board's termination of Mr. Huntley.

And every morning -- I was out there almost all the mornings before school on my way to achool, on the picket line supporting Mr. Huntley and protesting the fact that they had terminated him as principal.

That's one more point, the students in the school are black and hispanic, the parents are black and hispanic, Mr. Huntley is a black man with more professional qualifications than the superintendent had. In fact, he wasn't even qualified at the time he fired Mr. Huntley to be superintendent, and yet Mr. Huntley is pushed aside, but he had all the support, except for one group, a part of one group, six white members of the local school board, the

two hispanic and the black member of the board voted for him in that bedlam, and the six white members proceeded to cut him down.

Q We will cross-examine Mr. Rogers later, but essentially you are saying Mr. Rogers hadn't been a principal or a superintendent or --

A That's right. He was an after school recreation teacher, recreation and adult education after school kind of director.

MR. HOFFMAN: I have no further questions.

CROSS-EXAMINATION

BY MS. ROTHMAN:

MS. ROTHMAN: I have a question I would like to ask your Honor. You said before the chance is -- the grievance of Ada Pratt and Leroy Fredericks against the removal of Mr. Huntley was not admissible, yet I was looking over the minutes of this report and throughout the report there are findings that completely contradict a lot of the things that were just said. Is there any way of getting certain things of this report into evidence?

THE COURT: Not the findings, you see. So far as I know you can give me a memorandum of law on the matter, unless you are going to allege some kind of

estoppel or whatever they from using the state administrative remedy.

MS. ROTHMAN: If I can find some legal authority to back me up.

THE COURT: I would hope so.

BY MS. ROTHMAN:

Q Firtst thing I want to ask you, you said the vote was six to three. I have it in my records that the vote was seven to one, the vote at the July -- June 5th meeting to terminate Mr. Huntley.

A Well, I couldn't say what official records show. All I know is that -- I don't even see how they could have taken a vote. I am counting on the basis of Angel Reyes and Mr. Fredericks and Louise supporting Mr. Huntley, which they did. As far as I am concerned there was never an official vote taken in public because they didn't. It was bedlam. So whatever count you have, you know, that is something that would be what they have in their minutes. I don't know what you have for seven to one.

Q Are you a parent of a child in District 14?

A No. I am a school teacher in District 14, but in a parochial school.

Q You mentioned some group, I don't remember the name, you were a member of a community group?

A Voluntary organization of people interested in seeing better education in public schools in District 14.

Q Do these people consist mainly of parents of children in the district?

A As I explained earlier, parents and educators and community persons concerned about education.

Q Are these people that live in the community mainly?

A Yes.

Q Approximately how many people are in this group?

A I don't know, a dozen -- it varies from a dozen to twenty. It's purely voluntary. Some people -- parents from the school might join for a short time. There is no formal way to join, you just, you know -- there is no formal list of members.

NC fls.

CROSS-EXAMINATION

BY MR. ROSENBAUM: (Cont.)

Q Do you feel that these dozen or so people have more of a right to speak for the community than the elected community school board?

A If right is based on what you mean by right being for right and for what's right and for justice, at certain times I think they definitely did have more right to speak; if it means what's written on paper in terms of guidelines, who is permitted to speak, of course not, because it's not on paper. But definitely right in terms of helping children, yes.

Q Well, you know the Community School Board is elected, they are elected by the community, are they not?

A I guess it's hearsay to relate to -- yes, the Community School Board is elected by the community.

Q Is your group elected by the community?

A There were no elections for this group. It's a voluntary group.

Q Were you ever a candidate for office, Community School Board office?

A Yes.

Q Did you get in?

A No.

Q When did you run, what year?

A I dont remember. The first time that they had the elections.

Q Were you a member of a group that was sometimes called the Rum Board?

A Tha is the Community Local School Board. That's the kind of terminology that's pulled out to speak in a denegrating way about a group like this that's trying to fight for what is right.

Q Is that the same group that you mentioned before?

A Yes.

Q Was this Board generally critical of the elected Community School Board?

A Yes.

Q And you for sometime have -- were associated with critics of the Community School Board?

A Yes. Well, I've sided with Community School Board members. I can't say -- you say critics of the whole board. I am in accord with the minority members of the board.

Q How many times did you visit IS 33?

A I have only been inthe building to visit -- to visit classes, never. In the building to speak with

personnel, about twice and in front of the school many times.

Q You were never in the building to visit classes, you were only there to speak and yet you know Mr. Huntley's performance as principal was good?

A Yes. You see, as a teacher I know, and I teach in a school that is a miniature school like 33, that the best judge of good performance is -- is the parents of the children in the school because they are the ones that are most concerned about what happens to the children in school.

They will go to any length to protect their child. So, therefore, I trusted the judgment of the parents of the children in the school. When they said that they were happy with what was happening to their children at 33, and when they said that they would fight tothe end to see Mr. Huntley stay in that school, I trusted their judgment.

Allybody who is willing to sacrefice as much as they were to keep a man like Mr. Huntley had -- I was fully convinced that they were speaking the truth in the matter because it involved their own children's lives.

Q So none of this involved personal observations on your part?

A No.

Q How many children, approximately, attend IS 33?

A Presently I don't know about, but then I believe

it was around 1700.

Q Approximately how many parents did you speak to out of the 1700 children?

A At that time?

Q Yes.

A At that time I'd say about forty.

Q And from these forty parents you made your evaluation of Mr. Huntley?

A Yes, because those forty parents represented forty apiece.

Q Excuse me?

A Don't you understand? Those parents that were out there represented another forty parents that lived in their building or on their floor. They were coming from right across the street from the project, which is, I don't know how many stories high, but it's a big building, and they are coming from their floor, from those windows, those parents were down here marching in a circle, picketing, people were yelling support.

So each partent on that picket line represented another forty.

Q What is your conclusion?

A Just as your conclusion --

Q I'm trying to find out how you arrive at the

conclusion. The fact is, forty parents, you conclude that the parents of the children at IS 33 wanted Mr. Huntley?

A Yes.

MR. HOFFMAN: I want to say one thing: I am objecting because I don't think --

THE COURT: The question has been answered. Move to the next question.

MS. ROTHMAN: Okay.

Q Have you ever heard that IS 33 had problems, severe problems?

A Yes.

When the parents came to us before Mr. Huntley came in as principal and were very disturbed and wanted to have some change in the school, that's why we were looking for a qualified person who could handle the job, and they wanted somebody with excellent academic qualifications, and they wanted the person preferably to be black because they felt a black man could do more for the children in that school.

(continued next page.)

MP flws

Q In a letter I referred to before, dated March, 1973, Mr. Huntley writes that the school was in a state of emergency, first with the children in the halls, uncontrollable situations, who do you feel was responsible for that situation?

A I was not in the school so I can't say.

Q You say that Mr. Huntley was a terrific --

MR. HOFFMAN: I object. I don't think she said that. She didn't get any feedback is what she said.

THE COURT: Sustained.

Q O.K. I will rephrase the question.

You said his termination was an act of racism, yet you are not stating -- not negating the fact it was his responsibility for the chaos that existed in the schools?

A Two points; one, I made this statement based on what I saw happen to him in the public meeting. That statement relates to the way he was treated in the public meeting.

Then, as to what was happening in the school specifically, he was eliciting and calling for help from the community. I think that is absolutely in order. I operate in the same way when I need help in my school. I have been there since the inception of my school and I do

the same thing.

Q Do you have any knowledge of whatever of the day to day operations of I.S. [illegible]?

A Not specifically, no.

MS. ROTHMAN: I have no further questions.

THE COURT: Do you have anything further?

MR. HFFMAN: No.

THE COURT: Is that the end of your witness list for today?

MR. MEYERSON: Yes, your Honor.

THE COURT: You have a witness?

MS. ROTHMAN: I have a witness that is going out of the country.

THE COURT: Call the witness out of turn.

MS. ROTHMAN: Mr. John O'Conner.

J O H N J. O' C O N N E R, a witness called herein, was sworn by the Clerk of the Court, and testified as follows:

THE COURT: Two NN's?

THE WITNESS: Yes.

DIRECT EXAMINATION

BY MS. ROTHMAN:

Q Mr. O'Conner, what is your present position?

A Custodian-engineer in I.S. 71 in Brooklyn.

Q Prior to this position, what position did you have?

A Custodian-engineer in I.S. 33.

Q How long have you been employed or had you been employed at I.S. 3?

A I was employed five years.

Q Can you give me the date?

A Around May of '69 through June of '74.

Q So you were there throughout the period of time Mr. Huntley was principal?

A Yes.

Q In connection with your job as custodian, did you have any duties relating to fire control and reporting fires in the school?

A Yes.

Q Mr. O'Conner, I show you -- if I can find it. Do you have the school log?

THE COURT: There are the exhibits (indicating).

MS. ROTHMAN: What number is this, AA?

Q I show you school log, Exhibit AA in evidence. Could you look at this and tell me if this is a record kept in the regular course of your duties?

THE COURT: You know, it is already admitted

into evidence.

MS. ROTHMAN: Yes, I know. I know.

I don't know if you want to go through it.

THE COURT: I do not. It is admitted into evidence. Let's proceed.

Q O.K. Could you look through the log and tell for the 1971-72 school year, how many fires occurred, approximately?

A Do you want me to count them?

THE COURT: Have you done that?

MS. ROTHMAN: Yes.

THE COURT: What is the count?

MS. ROTHMAN: Well --

MR. HOFFMAN: Your Honor, I made a chart that may help. It's not one of the exhibits --

MS. ROTHMAN: We have a chart, too.

MR. HOFFMAN: I have listed all the first.

MS. ROTHMAN: 1971, one fire?

We have this admitted into evidence (indicating).

THE COURT: What number is your chart?

MS. ROTHMAN: S.

THE COURT: You may use it to examine the witness.

Q Is Exhibit S based on the log? I have a

record that in 1972, the school year, there were thirty-three fires. Does that sound accurate to you?

A It sounds reasonable.

Q I also have a record here that states May 23, 1972, there were ten fires in the school on one day.

Do you have a recollection of that?

A Yes. I don't know if that is the exact date. I know there were ten fires on one day.

Q Do you recall if this date was unusual?

A It was unusual.

Q How long have you worked as a school custodian?

A Since 1952.

Q How does this compare with other schools as far as this is concerned?

A There are many more fires in 33 than other schools.

Q Were any of these fires severe?

A I would say about four of them we lost a whole classroom. The ones with the ten fires, they were small fires in different locations in the building and we had to run around extinguishing them.

Q Do you recall what the fire situation was in the year prior prior to the time Mr. Huntley became prin-

cipal?

A There weren't many. Maybe one or two. Possibly three.

Q Do you recall what the first situation was this year up until the time you left?

A There had been no fires.

Q It went from thirty-three fires in one year to non -- to five fires in 1973, then to no fires?

A That would be about it.

Q Did you compile this list (indicating)?

A No. I gave you things when you requested them, you and Mr. Meyerson.

Q Did you give the school this information about I.S. 33 or did the new custodian?

A It must have been the new custodian. He had my records.

Q Were there many false alarms in the school when Mr. Huntley was principal?

A Very many.

Q Could you estimate how many?

A It varies, but the alarm used to go off quite often. Sometimes up to twenty times a day. The alarm would ring and we would have to check to see if there was a fire.

Q Before Huntley took over the principalship?

A Not that amount. There were false alarms.

Q What about when Mr. Hutnley was terminated?

A After that, there were.

Q In your opinion, was the fire situation at the time Mr. Huntley was principal extraordinary?

A Yes, devastating.

Q Were you concerned about it as custodian?

A Very much so.

Q Did you ever make any complaint about it?

A I spoke to Mr. Huntley and asked what we could do to stop it. We tried to assign more people who were convering. I made the report to my people and to the Fire Department.

Q Mr. Huntley mentioned something about the eighth graders marshaling the fire boxes; did that help?

A I never saw it. The Fire Marshal visited the building quite often and conferred with Mr. Huntley and myself to see what could be done and tried to track down the perpetrators.

Q Were the doors to I.S. 33 usually locked?

A Yes. All but the main entrance were kept locked, with school aides at the doors with a key to open the doors in case of an emergency.

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This was to keep the students from running out and other people from running in.

Q As a custodian, do you think it is possible for students to get holdof keys to the school?

A It would be possible.

Q In your opinion, could fires be started by children breaking in through windows?

A It was evident every time we had a fire in the classroom, it a room unoccupied at the time. The window and door would be broken where the person could reach in and from the inside open the door. The door is never locked from the inside. And they would usually take the wastepaper basket, put it in the wardrobe and by the time we found it, there was quite a fire.

Q Did these fires pose a significant threat to the safety of the school?

A Definitely.

Q Did you ever discuss this with Mr. Rogers?

A No. But copies of the reports went to his office. The district office.

MS. ROTHMAN: I have no further questions.

CROSS-EXAMINATION

BY MR. HOFFMAN:

Q Mr. O'Conner, did you draw any of these

statistics up?

A No.

Q You don't know whether or not these statistics, Defendants' Exhibit S, are accurate or not?

A I don't know.

Q You don't know whether or not there were thirty-three fires in 1972?

A No.

Q Now, you said that Fire Marshals came in to track down the perpetrators, is that correct?

A Yes.

Q These fires were suspicious in nature, is that correct?

A Definitely.

Q They were being started by somebody, is that right?

A Definitely.

Q Now, do you know what the function of all monitors would be with respect to fires?

A I would imagine if you had all monitors and if they saw a fire, they would ring the alarm.

Q Would hall monitors be paraprofessionals or teachers or parents in a school, walking through the halls?

A I would imagine so.

Q Would you know whether or not there were more paraprofessionals who were guards who came into the school after Mr. Huntley left, to patrol the halls?

A No, I didn't see any increase or decrease. The usual school aides I knew because they were stationed at the door because the door was padlocked. Those I knew. As far as others, I am not aware.

Q The school aides were added in September, '73, is that correct?

A I would not know.

Q You would't remember the date?

A No. We always had school aides. I don't know if there was an increase or a decrease.

Q You wouldn't remember?

A No.

Q Would you remember whether or not there were more doors which were being locked and made inaccessible to people from the outside beginning May, 1973?

A Since 1969, until I left, all doors were locked except the main entrance. That was the only way to gain access to the building except for when sometimes kids would bust the lock off the door.

Q That includes the basement door?

A Yes. We had to have new doors put on..

Q Were there additional locks put in on the 241
basement door to keep people from opening it from the outside?

A No. The only locks that were put on were these panic -- not panic, they were aid devices. They were put on after the school- closed and was empty and they were taken off by my staff.

Q You mean during the summer?

A No, during the night, to stop the illegal entrance. They would bar up the doors at night and remove them in the morning.

(Continued on next page.)

Q There weren't as many fires or false alarms before Mr. Huntley came into the school?

A Yes.

Q You came into the school in May of 1969, isn't that correct?

A Yes.

Q On these thirty-three fires which you mentioned, that was in the year 1972, is that correct?

A I did not mention thirty-three fires.

Q You can look at your log. But what I did was, I made a list of all the fires since Mr. Huntley was at the school. If there is any question you have about it --

MS. ROTHMAN: I object to this. I was never sent this in accordance with the pretrial order. This is the first time I am seeing it.

MR. HOFFMAN: All right, we don't have to do it this way.

MS. ROTHMAN: You never sent it to me.

MR. HOFFMAN: In preparing for my cross-examination, I made a list. It is in evidence.

THE COURT: What is the point of this? I don't understand the point of this. There is no question there was a substantial number of fires.

MR. HOFFMAN: I want to show the pattern of the fires.

MS. ROTHMAN: Where did you make it from?

MR. HOFFMAN: From the logs you gave me.

MS. ROTHMAN: I would like to determine the accuracy of that. I don't know if you made it up from your head or what.

THE COURT: When counsel is admitted to this bar, we assume counsel does not make up things from his head.

MS. ROTHMAN: I was just being hypothetical.

THE COURT: There is no point in being hypothetical; we are dealing with a real case.

Did you make this up based on your analysis?

MR. HOFFMAN: No, from the log. You can recheck it now --

THE COURT: Furnish it to counsel and she can check it. There is no point to questioning the witness if we have the record before us. You can --

MS. ROTHMAN: I will --

THE COURT: Excuse me. Do not interrupt while I am talking. We have a reporter and he cannot take two people at once. You must check that habit. It is going to get you into terrible trouble

if you continue it. Particularly, don't interrupt a judge.

You can check that over the weekend. If there is any question on it, on Tuesday bring it to the attention of counsel We don't have to bother this witness with it because it is based on a record.

Q Would you say that a substantial number of fires occurred in the spring of 1972?

A (No answer.)

Q Do you remember?

A No. I know we had a lot of fires. We were fighting fires. There was a problem. The dates, I don't recall.

Q Do you know whether or not Mr. Huntley took any action to combat this number of fires?

A He must have taken some action. I remember trying to check for matches and stuff like that. If they catch a kid in the hall, they ask him to empty his pockets.

Q Do you know whether or not after Mr. Huntley took this action, there was a substantial decrease in the number of fires?

A No, I couldn't answer that.

Q Would it surprise you if I told you in the spring of '72, during April, '72 through June, '72, there

were approximately thirty-one fires?

A No. If you check the records.

Q Would it surprise you if I told you from September, '72 through December, '73, there were only two or three fires?

A I guess we graduated all the firebugs out of the building.

MS. ROTHMAN: I object. I think we should defer to the log for the accuracy of this.

MR. HOFFMAN: If this is in error, this will be shown on Tuesday.

THE COURT: Proceed with the cross-examination.

Q Would you know whether from April, 173 to the time that Mr. Huntley was terminated, there were no fires in that school? Would that surprise you?

A I wouldn't be surprised with anything you told me.

Q Would it be possible that there were no fires during that time?

A If you checked it and substantiated it. I only made the record when the fires were. I don't remember the dates.

Q Other than increasing -- there were thirty-three fires in that school which occurred in the spring

of '72. Is there a provision in the log whereby you make a recommendation as to what should be done in the future to stop those fires?

A No.

Q There isn't?

A No.

MR. HOFFMAN: Can I see the log, please?

(Pause.)

Q I notice in the logs that are in evidence -- I can show you one copy, No. 9 says --

THE COURT: Indicate the exhibit number for the record.

MR. HOFFMAN: Defendants' Exhibit AA in evidence.

Q (Continuing) Where one question is: "State what action you are taking and give your suggestion for preventing recurrence."

Do you remember that question?

A Yes.

(Continued on next page)

CROSS-EXAMINATION

BY MR. HOFFMAN: (Cont.)

Q Up through June 14, 1972, there were 31 fires according to my calculations.

You can start from the beginning of the log. I notice you didn't make one recommendation as to what could be done to prevent those fires.

A Maybe I didn't --

Q Would that be fair?

A Maybe I didn't know how to prevent them.

MS. ROTHMAN: Objection. I don't think this witness is a defendant. I don't see why he should have to --

THE COURT: Overruled.

MR. HOFFMAN: I have no further questions.

THE COURT: Any redirect?

MS. ROTHMAN: No, your Honor.

THE COURT: Thank you very much.

Any further witness today?

MS. ROTHMAN: Can we wait until Tuesday?

THE COURT: Yes, we can.

Tuesday.

Will there be any documents that have come to our attention since the case started?

MR. MEYERSON: No.

THE COURT: If there have been, would you please give them to each other and inform each other of the witnesses you are going to call on Tuesday.

I see no reason why we shouldn't complete the case on Tuesday.

MS. ROTHMAN: You have two on Tuesday and I have at least six or seven but --

THE COURT: If necessary, we will go over until Wednesday.

MS. ROTHMAN: Okay.

THE COURT: 10:00 o'clock, Tuesday.

Thank you very much.

(Whereupon, the hearing was adjourned to Tuesday, February 11, 1975.)

* * * *

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18	Document	53	54

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

CLAUDE L. HUNTLEY, JR.,

Plaintiff,

-against-

73-C-1775

COMMUNITY SCHOOL BOARD OF BROOKLYN, NEW YORK COMMUNITY SCHOOL DISTRICT #14, etc., et al.,

Defendants.

----------x

United States Courthouse
Brooklyn, New York

February 11, 1975
10:15 o'clock A.M.

B e f o r e :

HONORABLE JACK B. WEINSTEIN, U.S.D.J.

MICHAEL MIELE
OFFICIAL COURT REPORTER

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Appearances:

JAMES I. MEYERSON, ESQ.
-and-
THOMAS HOFFMAN, ESQ.
Attorneys for Plaintiff

DEBORAH ROTHMAN, ESQ.
Attorney for Defendants

I S A A C S T O K E S , called as a witness, having been sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. MEYERSON:

Q Would you state your name and address?

A Reverand Isaac Stokes, 247 Kosciusko Street, Brooklyn.

Q Where is your residence located geographically?

A Bedford-Stuyvesant.

Q Is that in Brooklyn?

A Yes.

Q And what is your profession?

A I am a minister.

Q Do you have a congregation?

A I do.

Q Where is the congregation?

A No. 10, Claver Place, also located in Brooklyn.

Q And what donomination is the congregation?

A We're Universal.

Q How long have you had a congregation?

A Since 1964, 10 years.

Q How long have you lived in Brooklyn, where you have indicated?

A Now, I have been there nearly 20 years.

Q Have you had children attend I.S. 33?

A I have, yes.

Q How many, sir?

A I have eight children and five of them that went through 33 and two is in 33 now and two is in college and they all went through 33.

Q Did you have children at I.S. 33 when Mr. Huntley was principal of the school?

A I did, yes.

Q Did you have children involved attending I.S. 33 prior to Mr. Huntley coming to the school as principal?

A Yes.

Q Would that be immediately prior to his coming in 1970?

A Well, immediate because I had children in the school for the last 15 years.

Q In your capacity as a reverand, have you been involved in the teaching of children?

A I have, yes

Q Do you run a religious school?

A Yes, I do run a school now and I also was president of the Sunday School Union, Baptist, and I headed

Mount Olive Sunday School.

Q Was that a large Sunday School?

A Yes. We had at least 700 children in the school. It's a very large church.

Q Were you involved in the Parent Association at I.S. 33 when Mr. Huntley was principal?

A Yes, I was.

Q Had you been involved in the Parent groups at the school prior to Mr. Huntley?

A Yes. I have been pretty closely involved in the making up of the schools throughout the years. That's one of my pet things. I have always been involved in that.

Q How would you categorize your involvement in the general community as a consequence of your position as a minister?

A Well, I have done a lot of organization structures of programs that has been brought into the community. Right now I supervise a Youth Federation Program there in Bedford-Stuyvesant. In the general work I have been involved in quite a number of things. I am president of Boys High School.

Q You are presently president of the PTA at Boys High School?

A Yes.

Q Let me ask you some questions specifically about I.S. 33: Was there any change in your opinion as a consequence of your involvement in the school, any change in the direction of the school when Mr. Huntley became principal?

A Yes, I would have to say there were some changes because first of all I had, when one of my sons was coming out of 25 to go to 33, he was on a special, S.P. classes. At that time my wife and I discussed it and Mr. Huntley was the first to bring in the S.P. classes because that is uplifting the schools and we were very well satisfied that our son wouldn't change from S.P. classes and go into 33 and go into the same stature.

Q Did you notice any other kind of change in direction in the school, aside from that academic aspect that you spoke of?

A Yes, I have a way of more or less meeting at the principals of the schools whereby children were involved. It's not one that I haven't called and talked to them and got the ideas of their program and what their ideas were all about and I found out he brought in a very good environment and that it was beginning to bring the children into communication with the principal. That's one of the key things we talked about that there must be communication between the

students and the principal in order to have a good educational program.

Q Did this communication you just mentioned exist in your opinion prior to Mr. Huntley, communication between the children and the principal?

A I'd have to say that it had become a lot better. We don't necessarily teach, or preach racism and that sort but there is a certain kind of association to a black principal that you wouldn't necessarily get in the white principal.

Q Did your children personally respond better to Mr. Huntley than the previous principals that your other children had?

A Yes. We had been always conscious of certain things, and we had in our mind that the job that has to be done would have to be done with people with a certain feeling and in a man that has a background and knowledge of the problems we had. We have to keep in mind that the school is 100 per cent black and Puerto Rican and this has a kind of tendency to, for people to look to us getting together and doing our -- solving our own problems.

Q Did you work with the Parent's Association while Mr. Huntley was at the school?

A Yes.

Q Did your wife work with the Parent's Association?

A Yes.

Q Did you work as a parent with the child in the school?

A Yes.

Q Did you work in any other capacity in the school aside from being a parent of a child?

A Not in the beginning. You see, one of the things -- I am so involved in so many things and I didn't-- as a matter of fact we had gotten a letter from Mr. Huntley that there was a problem in the school and naturally by myself being busy, I gave up some of my other activities in order to ship my attention here so I became very active in the school then more than I was because before that time I was a member and my wife would go in and we would talk to the guidance counsel and we weren't necessarily involved to any extent because everything seemed to be running along smoothly.

Q When you received that letter, the letter you indicate, is that the letter that indicated there was an emergency situation in the school in the spring of 1972?

A Yes.

MR. ROTHMAN: Of '73.

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MR. MEYERSON: 1973. I am sorry.

A Early '73, yes.

Q When you received that letter what was your reaction?

A Well, usually when these kind of things happen, we usually sit down with the children and begin to ask them what is going on because they are there and they begin to tell us that there was a problem and at that moment we went down to the school and began to try to put the thing together to find out what the whole problem was all about.

Q Did you come as a consequence of talking with your children and going down to the school, did you formulate in your mind an opinion about what the problem was?

A Well, partly and then I also, as I began to start some other things, I'd go there and sit in the hall and sit down by the door -- I don't like for someone to give me news, I would like to know because I'd like to know what I am talking about. I sat there and observed what was going on.

Q What was the problem, if any, that you observed?

A It seemed like one of the -- the most problem at that time was discipline of the teachers because we often stressed that if the teachers are not disciplined then the students can't be because then the whole organization, if

it's not disciplined it won't run.

Q Did you discuss that with Mr. Huntley?

A Yes, many times that it's in my view that he couldn't discipline the teachers and if you can't do that, the whole program is sabotaged regardless of that the program is.

Q Was Mr. Huntley attempting to discipline the teachers from your conversations with him and observations?

A That's what I was gathering he was trying to do and I really believed that that was one of the major parts of the problem, the minute he tried to discipline the teachers, the teacher then began to try to more or less go over his head and that automatically created more chaos in the school.

Q How many principals have you been associated with in I.S. 33?

A Mr. Kovoris was before Mr. Huntley, and we worked very close with him. As a matter of fact under him, we had such a thing as student government. My son, who is going to law school, was the head of the sanitation department in the school. We had tried through him areas to make the school better. We really worked at it.

Q Was it your opinion that Mr. Huntley was taking a different approach to the disciplining of teachers than say, Mr. -- the other principal you mentioned?

A I kind of think that is what it was because as you began to bring in new programs and new principals to schools, sometimes those who have tenure they begin to, we believe, know that they feel they couldn't be fired from the school and they try to take the power in their hands rather than listen to the principal.

Q When Mr. Huntley was terminated, were you satisfied as a parent with his performance as the administrator of I.S. 33?

A Yes, very well satisfied with his performance in the program he was bringing in.

Q When you say "we" I take it you are speaking for yourself and your wife?

A Not only that, I am in the community and I am known there and different organizations and the parents that were involved because naturally as a minister I was the spokesman for the parents many times in the community.

Q Now, was the Parent's Association -- can you describe more or less what its makeup was, was it a large organization, small organization?

A Well, it was, it was sort of a small sometime with numbers but when it came to the representation of the parents, like we had someone that was head of the Tomkins Houses, and then we had a senator at Sumner Avenue, Mrs.

Tooty, and she headed an organization and she represented that and anyway there was about, I don't have them on my fingertips but there was more or less people that was able to get into the street during the day. Most of our people have to work and if they have to work some of them who head organizations and get paid they can afford to be in the street during the day where a lot of people can't. Most of the people out there were representatives of the organizations.

Q Would this represent a large segment, or what segment of the school population would this represent in terms of that group of people that was in the Parent's Association?

A To make contact, I'd say they represent at least half of the students. I am saying from my own view, there were at least half.

Q Was it, from your involvement in the Parent's Association, was the Parent's Association, what was their feeling about Mr. Huntley at the point in time when he was terminated?

A Well, actually, you see what happened, we had, after we put in the program we thought we had everything pretty well together. We were kind of relaxed where we thought we had gotten everything back together and then it

was a surprise to us that all of a sudden we said, my daughte called and said Mr. Huntley was fired. It was just like someone calling on the phone and saying this is what happened Everything is in chaos. We thought everything was going along smooth. So the parents were satisfied. We thought we had everything back together.

Q Can you compare Mr. Huntley's three years at the school with other principals that your family were at that school or other schools in the district which your family was?

A As you know, the whole school system in a sense has a lot of problems. A lot of problems -- well, to compare that, I'd say the schools I was involved in I would say it had become to be a very disciplined school until at the end of '73, before that, the school had been disciplined and it was going along pretty good.

Q There were problems?

A Oh, you're -- if you look at any of them there are problems. This is one of the things across Brooklyn and across the whole system, there are problems.

MR. MEYERSON: That's all I have.

CROSS-EXAMINATION

BY MS. ROTHMAN:

Q You say the school was okay until the end of

'73. What happened at the end of '73?

A Well, at the end of '73, it seems like this is when everything kind of became in chaos. This is the time we are talking about that after the program was all set and we began to move the school along, it seemed like if some of the teachers didn't want to go along with the program, it seemed that was like throwing in a short circuit and that's what caused the school to go into a spin.

Q You stated before that Mr. Huntley was unable to discipline the teachers. Wouldn't you say that shows ineffectiveness on his part as an administrator?

A No. I think if an organization is going to be run correctly there have to be guidlines. Therefore if the teachers follow the guidelines they will be disciplined by the principal because the principal is the boss of the school.

Q I understnd that but if he's the boss and he can't boss, isn't there something wrong?

A Something wrong with the staff. In order for the teachers to discipline children, they have to be disciplined themselves.

Q Were you originally called into the school by Mrs. Dunne?

A That's the chaos. Being in the community, I

had to do so many things in the community. If there is not a real problem I will try to work in other areas. The minute chaos is there in any part of Bedford-Stuyvesant, then I automatically shift, change where my priority is.

I am supposed to be at 110 Newsome Street, but we have to work in things where sometimes that we have to change our priorities.

Q When was the first time that you were called into I.S. 33?

A I can't say the first time because when letters come out for the parents-teachers meeting to me that's a call. If I didn't attend one month, my wife would. I have a sone sometimes who would attend. The thought is that when an emergency thing happens then I have to leave everything at that point and go.

Q When did Mrs. Dunne call you into the I.S. 33?

A Well, I can't give you a date.

Q Can you give me a year?

A It was in '73 when she called me.

Q Was it while Mr. Huntley was principal?

A Yes.

Q Why did she call you?

A Miss Dunne is my laborer and she worked in the school and by that when something happened, naturally

on the way home, she would tell us we have a terrible problem and say, "Reverand, come down."

Q She called you into the school in '73 because there was a terrible problem?

A Yes.

Q Do you remember at a school meeting last year, you making a statement that the school was in much better shape now under Mr. Pretty?

A No, not that it was in better shape.

Q What was the statement?

A It seemed like, if I would go away from the thought, if you go back and find out, some of the things we believe that the district school board was doing and if they were helping to create chaos, naturally when they get Mr. Pretty there it would mean they have achieved certain things and some of the teachers automatically create chaos.

The thing I am trying to say here is, I had nothing against Mr. Pretty, I didn't know anything about his ability to be an administrator, so I couldn't evaluate him.

Q Did you make any statement to the effect that the school is in better shape now than it was before?

A Better disciplined, and mostly because of the fact that the teachers themselves had quit sabotaging the program. The teachers are now cooperating under Mr. Pretty

than Mr. Huntley. In the beginning that's what it seemed that it was.

MS. ROTHMAN: I have no further questions.

Sfls?

(Continued on next page)

REDIRECT EXAMINATION

BY MR. MEYERSON:

Q In your response to the last question, you indicated that at the beginning it seemed like that was what it was. What did you mean, at the beginning when Mr. Pretty came in the teachers were working with him?

A Yes. You see now --

Q Has that changed?

A It seemed that they had changed because there was a certain group of teachers that was out to get Mr. Huntley out of there at all costs.

Now, you know, inside -- as I said, I was in there and I have been in there for years and when this kind of thing happened, that's what I mean about the teacners themselves were not disciplined, because they was trying to get rid of the principal.

MS. ROTHMAN: I object. This is hearsay. This statement that there are a certain amount of teachers to get Huntley at all costs is hearsay.

THE COURT: It is in the record already. Have you any further redirect?

MR. MEYERSON: No.

THE COURT: Thank you very much, Reverend, that will be all.

(Witness excused.)

THE COURT: Next witness, please.

J O H N S T E E L, called as a witness and, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HOFFMAN:

Q What is your present occupation, Mr. Steel?

A I am a teacher for the New York City Board of Education.

Q What subject do you teach?

A I teach reading and English.

Q And how long have you been a teacher with the New York City Board of Education?

A 12 years.

Q And how long have you worked in District 14?

A 11 years.

Q Briefly, what is your educational background?

A I did undergraduate work at Jackson State College, Mississippi; graduate work Columbia University.

Q How many different --

A I am a poet, a playwrite; I have been presented off Broadway. I won the Columbia University Best Writer's Award, that was in 1966.

Q How many different principals would you say you have worked under during your 12 years?

A I worked under two principals in Chicago and two principals other than Mr. Huntley in New York City.

Q How many different schools did you work in?

A I have worked in three schools in New York City.

Q You did work in I.S. 33 for a period of years?

A Yes, I did. I worked in I.S. 33 from 1964 till 1973. Then I transferred.

Q I assume you worked under two other principals prior to Mr. Huntley or one other principal?

A I worked under one --

Q In I.S. 33?

A Prior to coming to 33 I worked under one other principal.

Q So there was one other principal before Mr. Huntley came at I.S. 33?

A Yes.

Q What was the principal's name?

A Mr. Klevorick.

Q When Mr. Huntley came to I.S. 33 in 1970 -- is that correct?

A That is correct.

Q Could you describe during his years at I.S. 33 what educational programs or what philosophy he introduced into the school, if any?

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A Yes. Well, prior to Mr. Huntley coming, the children -- I noticed that when he came into the building immediately he began to identify with the children.

THE COURT: When you say "he" you mean Mr. Huntley?

THE WITNESS: I mean Mr. Huntley.

He gave the children a handshake, he said, "Right on" to the children, he put his fist up in the air and the children would greet him with that same manner, and I observed this going on and had occasion to speak with some students, and they were saying, "Hey, man, this Huntley is all right."

And they said, "He's the best principal we've ever had." Other than that, I had always assumed that the principal was sacrosanct, meaning that if I wished to speak with the principal I could not go directly to the principal, I had to make an appointmen perhaps a week in advance, with the secretary, and it does not mean that when you make an appointment that you can always see the principal; he might have some other obligations to fulfill even though he has had your appointment for a week.

I found that with Mr. Huntley when he came into the building, immediately he said his door was

open, that anyone who wishes to speak with him, parent, teacher or whoever, could come into his office and speak with him.

I found that most progressive. Other programs he instituted in the school, the special education classes, the children that he gathered in the rooms on the third floor, a special program of girls who were very disruptive, he housed them with a different philosophy in that -- to say that they could go back into the mainstream once they had adjusted to a way of life and had started to think seriously about education.

I can think that when there were problems in the basement -- and there were lockers that students went down into the basement to hide in, and he started to have walls built around those lockers to keep the students out.

It seems to me when Mr. Huntley came into that building that he faced insurmountable problems.

The building was not conducive to good education; lights were out, windows were broken, boarded up, dark spots in the school, vermin, rats, roaches running around the school, so he didn't get support that he should have gotten from key people who were

not necessarily teachers, you see.

So he faced these things.

Q During Mr. Huntley's administration, did anybody ask you from the District Office, the superintendent or anybody else in the District Office, what your views were as to Mr. Huntley's performance?

MS. ROTHMAN: I object. I think this is hearsay.

THE COURT: I will permit it on the issue of what the state of mind of the officials of the district were.

A No, no one spoke to me concerning my regard as to Mr. Huntley.

Q Mr. Huntley was there approximately three years, is that correct?

A That's correct.

Q Could you briefly review those three years in terms of decorum in the school, untoward incidents such as fires, students in hallways and so forth?

A Yes. During the first year I would say deportment was excellent; excellent student cooperation, teacher cooperation.

The second year I would say continued at that same level until there was a change in administration, and

that would be 1972, February.

At the end of that mid-year, then we started to see some problems. Of course, the year went on, but it was in 1972 -- '73 that we received more untoward incidents than before.

Mrs. Dunne stands out in my mind. I can remember teachers calling a meeting that Mrs. Dunne attended and Mrs. Dunne was saying that she represented 200 parents and that --

THE COURT: Excuse me. Were you present at that meeting?

THE WITNESS: I was present at this meeting.

Q Briefly, tell us who Mrs. Dunne is -- does he have an official capacity?

A Mrs. Dunne has no official capacity whatsoever. She is an educational -- not an educational assistant even, she is an aide in the school when I was there.

Q Fine.

A This meeting was held in the library and when I got up to question Mrs. Dunne, she had announced that she had 200 parents that she was going to bring into the school to oppose Mr. Huntley, and she was the only other -- there were no parents in that meeting, only Mrs. Dunne.

So I said to Mrs. Dunne, "Well, what part of

the community will you be representing?"

The teachers would not let Mrs. Dunne answer this question. They said, "Well, she's going to represent the community."

So then I said, "Well, if that's the case, she's representing the community, Mrs. Dunne, do you know that there is an elected PTA of this school, Mrs. Platt, who represents the community?"

And they would not let her answer. So I said to her, "Mrs. Dunne, I will be glad if you are representing the community, this is an unofficial, serious trumped up meeting that you should not be in saying you are going to represent the meeting. I am going to introduce you to the president of the PTA, then if you have some charges to present to the teachers, do it through the PTA."

Q Do you know whether or not Mr. Huntley took any action in regards to when there was an increased number of fires?

A Yes, he did. He advised the teachers to come into the hallway. There were bulletins he put out, the regulations on how to exit and get out of the building quickly.

Q Is that all you remember?

A Yes. I cannot remember anything else.

Q Do you remember any incidents where teachers took any action to increase the number of students or decrease the number of students who went into the hallway?

MS. ROTHMAN: Objection. This is solely leading.

THE COURT: It is refreshment technique. I will allow it.

A Yes. After Mrs. Rogard, the English chairman, left to go to 126, I believe, Mr. Huntley named me acting chairman of that position.

And as acting chairman, some of my duties were to walk into the hallway to meet with teachers. Well, it is the hallway that I'd like to speak about. Children were not garnered into their rooms properly. I would walk the hallway, I would put students in their rooms and I would turn my back and walk into Room 212, two seconds later these children would be back in the hallway again.

I would take these same students back to the same teachers room and point out to the teacher her circular, and I don't remember the numbers now, students are not supposed to be in the hallway. You are breaking the school regulations, a school rule. I would tell them to please keep the students in their room.

Of course, the teachers would smile very untuously

and acknowledge the mistake; however, when I had turned my back again the same thing would prevail.

And as the acting -- of course, you must understand that as an acting you are only a teacher and they would -- they had no bitterness, you know, against me per se because they considered me one of their rank, however, I realized that as doing this menial task that I was doing, what other problems must have faced Mr. Huntley, who had more and myriad problems to come against.

Q Did there come a time when the parents boycotte the school in about spring of 1973?

A Yes.

Q Will you briefly describe what knowledge you have about the boycott and what the parents' demands were and how that was handled?

A Yes. There was a letter that came out and the parents demanded certain demands of 33. I believe you have that here.

Well, Mr. Huntley called a meeting of teachers in the auditorium to explain the position that the parents had taken. After MR. Huntley dismissed this meeting, a teacher jumped up even before Mr. Huntley could get out through the door and said, "Sit down, sit down, everybody sit down. Don't go anywhere, I have something to say to

you."

All the teachers sat down and this teacher said, "Do not worry about those demands. Those demands are not worth the paper they are written on. It is Huntley they are after and the teachers need not be worried."

The moment the local school board read those demands they tore up the paper. A teacher said it, do you want his name?

Q Yes.

A Mr. Madacarter. (ph)

Q Finally, could you briefly describe in your judgment how the teachers reacted, what the teachers' attitude was towards Mr. Huntley; in other words, was it in favor, mostly against or whatever?

A I would say it was a tri-situation. There were about a third of the teachers for Mr. Huntley. A dissonant few vociferously vocal and gutteral against Mr. Huntley, and then there were those who were those who were stragglers, who were neutral.

Q What was the majority?

A I would say the majority were neutral.

MR. HOFFMAN: I have no further questions.

CROSS-EXAMINATION

BY MS. ROTHMAN:

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Q Do you feel that Mr. Huntley was at all responsible for the chaotic conditions that existed at 33?

A I haven't called them chaotic.

Q For the problems that existed at I.S. 33?

A I would say that Mr. Huntley is not totally responsible for the problems that existed --

Q Not at all responsible?

A At all responsible?

Q Right.

A That question would have to be framed within this reference, that after Mr. Huntley asked the district for help and the demands were sent to the district, and Mr. Rogers refused to come into the district to speak with the parents, after undertaking a solemn obligation to provide the students of 33 with an education, I would say that the responsibility must lie jointly.

Q Jointly with whom?

A The superintendent and the principal.

Q So you are saying the principal was somewhat responsible for the problems at I.S. 33?

A If one is to assume the command of a ship, one has to be -- had to have some responsibilities.

MS. ROTHMAN: I have no further questions.

MR. HOFFMAN: I have no further questions.

THE COURT: Thank you very much.

(Witness excused.)

THE COURT: Does the plaintiff rest?

(Cont'd on next page.)

JB:tr
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MR. MEYERSON: Your HOnor, the problem we have is that we haven't been provided any guidelines. We have just asked --

THE COURT: What kind of guidelines?

MR. MEYERSON: I am sorry.

MR. HOFFMAN: I wanted to --

MR. MEYERSON: For evaluation and procedures.

THE COURT: You asked for such?

MR. MEYERSON: Yes, we did.

THE COURT: Well, we will assume there are none.

MS. ROTHMAN: I haven't personally.

THE COURT: All right. The plaintiff rests. Any motions?

MS. ROTHMAN: Yes. At this point I would like to make a motion to dismiss this proceeding. I feel that the plaintiff has completely failed in his burden of making out a prima facie case of racial discrimination. I think there have been no specific acts of discrimination toward this particular plaintiff shown. I think it's been admitted that the school was in a state of chaos. I think that it's been admitted that the person who replaced this principal was black; that the major allegation seems to be that this principal did not get enough cooperation, did not get enough support. And even

assuming this was true, which I don't -- you know, I don't admit -- it was admitted that the school was in a state of chaos. There were many fires, many conditions which were horrendous.

I think there was sufficient grounds for the Community School Board and the community superintendent to dismiss the principal. And I don't think the prima facie case of racial discrimination has been made.

THE COURT: I will reserve decision and hear the defendant's witnesses.

I take it, you are ready to proceed?

MS. ROTHMAN: Yes.

THE COURT: All right. We will take a recess for a few minutes.

(Recess taken.)

MR. MEYERSON: Your Honor, before the defense puts on their case, we would request that the witnesses be sequestered during the testimony of each other witness because much of the testimony is going to be, I believe, identical or cumulative in nature. Unlike our case where various witnesses talked about various different things from a parent perspective and a teacher perspective --

MS. ROTHMAN: I would like to respond. In the

first place, the witnesses now are not going to be repetitive. My first witness is the principal. My second witness will be the community superintendent. They will have totally different viewpoints.

And secondly, you had many witnesses that were repetitive. Teacher who told basically what I would say is the same story. And your witnesses weren't sequestered. And I don't think that's fair.

THE COURT: Well, do you want to press your motion?

MR. MEYERSON: Yes.

THE COURT: All right. We will have only the witness who has testified or will testify or has testified. Those who will testify for the defendant who have not yet testified will remain in the witness room.

All right, call your first witness.

MS. ROTHMAN: Mr. Pretty, you will have to wait in the witness room.

Where is the witness room?

THE CLERK: Have them wait outside and I will take them to the witness room.

MS. ROTHMAN: All right.

MR. MEYERSON: Your Honor, I would just like to advise you that as an observation of the court

procedure -- and what is happening now, Miss Hopian, who testified here -- it has nothing to do with that -- she has brought someof the children from her class.

MR. HOFFMAN: It has nothing to do with the case. It is just an educational --

THE COURT: All right.

L E O N A R D S. P R E T T Y, called as a witness having been first duly sworn by the Clerk of the Court, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. ROTHMAN:

Q Mr. Pretty, what is your present position?

A Acting principal of I.S. 33.

Q When did you assume this position?

A June 6 of '73.

Q What was your prior position?

A Director of State Urban Aide.

Q Where did you hold this position?

A At the District Office, District 14, Brooklyn.

Q Is there anything different in salary between the two positions? Your previous position and your present position?

A There was an increase in pay.

Q Was your present position a demotion from your prior position?

A Would you repeat that?

Q Was your present position a demotion, a demotion or the same as your prior position?

A No. It was a promotion. There was an increase in pay. It was more time off. Summer vacation, all of the holidays.

In addition to that, one must understand the nature of the program. State Urban Aide comes out of what is called -- it is funds that are allocated to cities or states. And the cities will spend money and then they are reimbursed by the state or the Federal Government.

And these bills must come up before the State Legislature year after year. And these bills can be voted out at any particular time, in which the State Urban Aide -- and the one I was working in was voted out this year.

Q Would you say that your prior position was a policy making position?

A No, it was not a policy making position. It was simply a job where you implement the guidelines and regulations set down by the Central Board, the City or the Federal Government.

Q Is your present position as principal of I.S. 33 a policy making position?

A Policy making in the sense that you make a policy with respect to the school. And you also feed to

the superintendent certain kinds of information that might be helpful in helping him to make policy decisions.

Q How did you feel about leaving the District Office for your present job?

A Well, the mere fact that I took the job should indicate that I preferred taking the job as acting principal of I.S. 33 rather than director of State Urban Aide, knowing that that job would be phased out as a result of the bill being voted out of the legislature.

Q Did you assume the principalship immediately after Mr. Huntley was terminated?

A Yes, I did.

Q Could you describe in general your relationship with the Community School Board of community District 14?

A They were very cooperative. They gave me support in anything that I needed or any task that I was faced with.

Q Could you describe in general your relationship with Mr. Rogers, the community superintendent?

A We had a very, very harronious working relationship. We did and still do.

Q Do you have more of a faculty in the school now than Mr. Huntley had, as far as you know?

A Well, according to the records, there has been a decrease in personnel. I think -- if my figures are correct, I think the school year of '71-'72, there were a hundred and thirty-five teachers. And I have ninety-nine now. So there has been a decrease. And I must say there has been a decrease in student population now too.

(Cont'd on next page.)

Q What about school aid? Has there been an increase or decrease?

A There has been a decrease. This year of 71-72, '72-73, there were approximately -- and I must preface this by saying that you're given not school aides; you're allocated school aide hours. And at that time, as it was indicated, the school -- or I.S. 33 had been allocated something -- approximately 16,000 school hours, which have been cut to 9,000, which is almost half.

Q Since you have been principal have there been many grievances filed by the teachers?

A There was one grievance filed when I first went there as acting principal. However, I lost that particular grievance.

Q Only one?

A One. I lost it, however.

Q How long have you been principal?

A Since June, 1973.

Q Could you --

A June 6, 1973.

Q Could you describe in general your relationship with the teachers at I.S. 33?

A Well, again, we have a very harmonious working relationship. They give me support. They cooperate with me

very well.

Q Do you find that there are any disgruntled teachers in the school that have caused you any problems?

A Not to my knowledge.

Q Do you find that there are any teachers in the school that resent taking orders because you are a black person?

A If so, I do not know anything about it.

Q How would you describe the general condition of I.S. 33 at present?

A I would say that it's functioning normally. We have no crisis.

Q Have you had many fires since you have become principal?

A I think the record will show that we had -- if you want to call it a major fire -- at the beginning of the school year. However, it happened on a Sunday evening according to the fire department.

Q So how many fires were there?

A According to the records, one.

Q Since you became principal?

A Yes.

Q What is the responsibility of the school principal?

A He has the responsibility -- the overall responsibility of administration and supervision of the total school.

Q If the school is in a serious state of emergency, in your professional judgment who is responsible for the state of emergency?

A Well, ultimately the principal must -- or the responsibility must lay with the principal.

Q Do you think the parents should play an active role in resolving the problemsof the school?

A I do not think parents should be called in to solve problems whereby teachers and the administration are supposed to solve. Because after all they are the ones who are getting paid to do the job.

Q Since you have become principal at I.S. 33, have you noticed that there are any teachers who are reluctant to control pupils or who are intentionally uncooperative in any way?

A I will not say that there are teachers who intentionally are reluctant to control students. But I will say that you have strong teachers and you have weak teachers.

Q You haven't found any teachers who are intentionally disruptive?

A I am sorry. Will you rephrase that?

Q Have you found any teachers that are intentionally disruptive or intentionally anxious to cause disruption?

A No. Not teachers.

Q Are you familiar with the two boycotts that took place in the school in 1973?

A I am familiar with the boycott that took place while I was there, when I first went there as acting principal.

Q What year was that?

A 1973. The latter part of May and the first part of June.

Q Do you know approximately how many people participated in the June boycott?

A Well, I would say there were never more than 14 community people on the line at a time. And they were not all parents. There were four or five who were poverty workers.

Q Are there any conspiracies in the school that you know of?

A Not to my knowledge.

MISS ROTHMAN: I have no further questions.

CROSS-EXAMINATION

BY MR. HOFFMAN:

Q Mr. Pretty, Mr. Rogers is your boss; is that correct?

A He is the superintendent of District 14, yes.

Q He is your immediate boss?

A That's correct.

Q And then the Board of Education is the ultimate boss?

A Well, under decentralization --

Q Excuse me. I am sorry. The Community School Board 14?

A Yes.

Q And you know they are defendants in this action?

A Yes.

Q And they do have the power to fire you?

A As Acting Supervisor, they did -- or they do. Yes.

Q My question is, do you think there may be some -- before I go into any questions, I just want you to search your mind as to whether or not there may be some hesitancy to saying something negative about them.

MISS ROTHMAN: I object to this question.

THE COURT: It's appropriate cross-examination on the issue of bias. I will permit it.

A Would you rephrase the question.

Q Well, would you say that maybe -- I asked you to search your mind on this to see whether or not there may be some hesitancy to say something negative against the people

who have the power to remove you from the position you are in now.

A I can only state -- first of all, I can only answer questions that are asked or give answers to questions that are asked, and I can only state facts.

Q Do you remember telling the faculty members or a member of the Board that teachers aren't going to do to you what they did to Huntley? Do you remember saying that?

A No, I do not.

Q Do you remember saying --

A To a Community School Board?

Q To anybody.

A To a member of thw School Board?

Q Let me say anybody.

A No. I do not remember making that statement.

Q You do not?

A No.

Q Could you have made it and you don't remember?

A One might make statements, but I -- I am not -- I am not denying or I am not saying I made that statement.

Q You don't have a present recollection?

A Present recollection of that, no, I do not.

Q Actually, before you went to -- before you were appointed principal, or as you were being appointed principal,

acting principal, rather --

A Yes.

Q (Continuing) -- of I.S. 33, there was a job which Mr. Zahn had? Do you remember that?

A Yes.

Q What was his job?

A Mr. Zahn was the Director of reimbursement programs.

Q He was leaving; isn't that correct?

A I think he was planning to leave.

Q The position was opened?

A He was planning to leave, yes.

Q And the fact of the matter is that you were in line for that job; is that correct?

A No, that is not correct.

Q Well, isn't it true that you had -- that you wanted that job? Let me put it that way.

A No, that is not correct.

Q Isn't it true that you expressed to Members of the Board that you were going to fight for that job?

A Not to my recollection.

Q Now, since you went to I.S. 33, the school was consolidated; is that correct?

A Yes. The one grade annex was consolidated with

the two main facilities, yes. This school year.

Q When was that?

A In September -- I am sorry. About approximately the 15th of June.

Q Approximately?

A Yes. Approximately.

Q Of what year?

A 1973.

Q Would you say it is easier or more difficult -- let me strike that.

Prior to June 15th you already had been in the position of acting principal for approximately two weeks only?

A Yes.

Q I believe you stated --

A June 6.

Q I believe you stated you were appointed June 6th.

A Yes.

Q Now, would you say it's -- and you were responsible for this short period of time to administer the main building and the annex?

A Yes. I was responsible.

(Continued on next page.)

Q Would you say it's more difficult or easier to administer a school which has an annex -- is it five miles away, approximately?

A I don't know exactly. Butwe can assume it is approximately five miles.

Q Would you say you would have had to travel out to the annex on a regular basis; is that correct, if it wasn't consolidated?

A Are you saying would I have had to travel?

Q Yes.

A Yes.

Q And you would have had to administer a school which was not directly within your observation on the days you were in the main building?

A Would you rephrase that question.

Q Well, you -- you would have had to administer a building and students and teachers which were not directly within your observation during the times you were in the main building?

A Yes. And I also can compare it to the fact that my office is on the first floor and I have to administer -- or I am in charge of classrooms and students located on the fourth floor.

Q Would you say -- would you really compare that

to a building which is five miles away?

A They both come under my responsibility.

Q But as far as administering, would you compare that to supervision of the fifth floor when you were on the first floor of a building -- would you compare that to supervising an annex which is five miles away?

A Not necessarily so. It would depend on the person you had in charge of your annex.

Q But you would still be responsible?

A Ultimately, yes.

Q Would you agree that it would be a little more difficult at least to administer the building when it was not consolidated?

A I would have to say that would be -- there would be some difficulty involved. Even, let's say, traveling. You know, getting back and forth possibly.

Q Now, as a -- you have been a principal for a year?

A Since June 6th.

Q And did you administer -- were you an administrator prior to that time at all?

A Well, I was director of State Urban Aid prior to that for approximately five years. I was Acting Assistant Principal at I.S. 33 the school year of '67-68.

Q When there is a problem in the school, the teachers come to you? Would that be fair to say?

A It depends on how you define problem.

Q Well, any major or minor problem which the --

A Teachers do come to the principal with various kinds of problems. Yes. Whether they -- sometimes they -- whether they are personal problems, problems with the students, problems with the class, problems --

Q Forgetting the personal problems.

A Yes.

Q Problems which they may have in the school. I am sure some problems have cropped up, major or minor, within the last year and a half.

A Sure.

Q And you expect them to come to you with those problems?

A Not necessarily come to me. They have immediate supervisors.

Q You would expect them to go within the chain of command within your school? Would that be fair to say?

A We try to express this and impress upon them to do this.

Q You would expect them to go to the chain of command which is established within your school, whether it's

your immediate subordinate, whether it's you yourself, or before they go over your head, so to speak?

A As I said, we try to -- you know, we try to impress upon them to do this. Sometimes they don't do it.

Q In other words, there have been occasions where teachers have gone directly over your head?

A No. There have been times when teachers have gone over their immediate supervisor's head and come to me.

Q What about outside the school?

A Not to my knowledge.

Q You say you would have more difficult problems in the school if the teachers would be going outside the school? Let's say, to the superintendent. The superintendent would deal with the problem rather than sending him back to the school. Would you say that would create some problems?

A I really cannot answer that.

Q Would you say that one of the functions of a superintendent would be to support your authority within the school, to back you up, so to speak?

A If it was in the framework of his policy and guidelines, yes.

Q Well, would you feel it is important that you are backed -- in other words, when you make a decision, when you set policy in the school, when you set up a chain of

command as to what happens when a teacher feels they have a problem, you expect to be backed up by the superintendent?

A As I say, if it falls within the confines of the guidelines and policies and regulations set forth, I would say, yes.

Q And you don't see any problems if a teacher would go to the superintendent before they went through your processes within your school and the problem would be dealt with by the district on a district level rather than being referred back to the local principal level? You don't see any problem?

A I cannot answer that, no.

Q Isn't it a fact -- or wouldn't you know, Mr. Pretty, that when you took over the school the number of fires were eliminated for several months? Isn't that true?

A I really don't know.

Q Isn't it true that the number of untoward incidents had dramatically decreased when you had taken over the school?

A There again I can't answer that. I don't know.

Q Do you know whether or not Mr. Huntley had a system of prevention of untoward incidents of fires via eighth graders looking at and watching fire alarms and fire boxes?

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A I don't know. I never discussed that with Mr. Huntley.

Q Now, you say -- how many school guards, by the way, are there in the school?

A School guards?

Q Yes.

A Three. I'm sorry. Two. One security guard and two school guards.

Q One security guard?

A Two school guards.

Q Now, this security guard, is he a member of the Board of Education -- excuse me. Is he employed by the Board of Education?

A Yes.

Q You have an Officer Smith? Is he still assigned to your district?

A Yes. Patrolman Smith.

Q He doesn't work for the school district -- he doesn't work for the Board of Education, but he is assigned to look after the school?

A Not only to look after the school, but the immediate environment within -- you know, a couple of blocks from the school.

Q Did you have the security guards -- excuse me --

Yes. The security guard and the school guards there in September of 1973?

A I had one of each. I am sorry. Yes.

Q Did they come on in September of 1973? Do you know?

A I inherited -- the personnel that is there now, I inherited. I might say that I had to excuse someone as a result of the elimination of my reduction in hours or for school aides, too.

BM fols.

(Continued on next page.)

Q When the number of pupils were decreased in your school, when did that happen and under what circumstances did that happen?

A Under general circumstances, mobility rate, they moved out of the neighborhood.

Q Do you know what the number of students are approximately that are registered?

A Approximately 1,427.

Q The figures we have is about four or five hundred less than what Mr. Huntley had?

A That is possible.

I think you will also find that we have approximately 30 teachers less or very close to it.

Q You would agree, wouldn't you, that when you have fires and untoward instances that as the number of students decreased, the number of these fires and untoward instances would also decrease?

A That depends on who was setting the fires.

If the students who were setting the fires left the school, cirtainly; but if you have arsonists who replace them, no.

Q So if there were a number of fires in the school you would attribute that to fire setters, students?

A Possibly.

Q Now, would you say that if you have a firebug in your school that you mention, other than try to find out who it is, how would the principal be able to stop such an individual?

A Would you rephrase that, please?

Q You said that fires are caused by firebugs.

In other words a number of fires may depend on firebugs, students who like to cause fires, right?

And they may graduate from the school and maybe replaced by others or may not.

A Yes.

Q If you do have a firebug in your school, other than try to apprehend him, trying to identify the individual, what do you do about it as a principal?

A You have to know who it is.

You would have to know who the firebug is.

Q Would you say that it depends on, as far as finding out who it is, you being on the first floor, you would probably want to get the cooperation of the teachers in trying to ascertain who it is?

A I would have to say that teachers are responsible for the activities of their classrooms.

Q You also rely on the cooperation of the teachers as far as keeping students out of the halls, don't

you?

A We do to a degree, yes.

Q Well --

A Maybe I should say we ask them to come out into the corridor to help to move students into the classrooms.

Q Do your student aides act as hall monitors?

A Students Aides? I do not have schools aides.

Q School aides --

A Oh, yes. They work on the front floor, the front door, the door onto the floor street, to the Stockton Street backyard and they also work in offices doing various chores.

Q Are you saying as a fact that you know that the school aides acting as hall monitors were available to Mr. Huntley?

A Yes, the number of hours, the number of hours were allocated at approximately 16,000 and I also said that I have inherited the staff that was left by Mr. Huntley, yes.

Q You said you were receiving cooperation from the Board and the superintendent?

A Yes.

Q That they were cooperating extensively?

Would you say that that cooperation is important

as the authority or principal in the school?

A I would have to say that the principal should get cooperation from a superintendent and a Board, which I have indicated that they have been very cooperative.

Q Do you have anybody at the school now who is responsible or from the District Office who is responsible to evaluate your performance?

A We have a Mr. Schiff who is the supervising principal of the intermediate high schools in the district.

Q And his responsibility is to see how you are doing in the school? Would that be fair to say?

A I think that would be fair to say.

Q And would he come and visit the school and observe what is happening in the school and how you are dealing with problems and so forth in a general way?

A Yes, he comes around.

Q How many times would he come around?

A I don't know exactly.

I would say maybe once every -- and it depends on what you have, as an example I would say about once every two or three weeks and depending on if you have a meeting, you would invite him in.

Q Once every -- may --

A Maybe once every two or three weeks; sometimes

it is a month.

Q The average is once every two or three weeks and if you have a meeting you call him in?

A Or if you want some information he would come in.

Q He would be available to you if you have a question or a problem that you may seek his advise for?

A That is correct, yes.

Q Do you know whether or not this individual was available to Mr. Huntley?

A I don't think -- I am not sure.

I cannot answer that, but I don't think he had that role at that time. I think his role was entirely different.

Q That role really started just as Mr. Huntley was leaving?

A No, just this year.

Q Just this year?

A Yes. As I said I am not sure.

I don't even know whether he had that role, but I really should not answer that question.

Q And would that be September of 1974?

A Yes.

Q And what about -- so, in other words this

supervisor is the delegee of Mr. Rogers as far as looking over the way a principal conducts the affairs in his school?

A He is the supervising principal of the intermediate high schools, so you may say he is the arm of the superintendent. You may put it that way, but I don't know.

Q Does Mr. Rogers also attend, vist and observe you in your performance or does he delegate that to Mr. Schiff?

A Mr. Rogers has not been around this year at all.

Q Let me ask you a question, and this is my final question, sir.

I want your opinion on this: Some people may say that a black person who is agressive, who is more demanding, may receive less support, less cooperation than let's say a black person who is more passive.

What is your opinion about that, about that being the problem as far as your ability to get the support from the Board of Education or Mr. Huntley's, and to get that support from the Board and Mr. Rogers?

A I would rather not answer that. I would not want to relate to that at all.

MR. HOFFMAN: I have no further questions.

REDIRECT EXAMINATION

BY MS. ROTHMAN:

Q Where was the annex in the main building consolidated?

A Where were the activities?

Q No, you stated the annex of the main building was consolidated into one.

A Approximately June of 1973.

Q Prior to that do you know who was responsible for the day-to-day operation of the annex?

A You mean -- well, the principal is ultimately responsible. I have Mrs. Straker who was in charge of the annex.

Q In your opinion would you say that Mrs. Straker was responsible for the success of the annex or for the fashion that the annex, or the fact that the annex was not in such bad shape as the main building?

A Let me put it this way: Mrs. Straker is an excellent administrator, and very capable.

Q Would you say she was responsible for the fact that the annex was in better shape?

A I would rather not answer that. I would rather she made an excellent administrator.

Q I have one last question that I forgot to ask

you before on direct: What is your educational background?

A I have a bachelor of science degree in health education, masters degree in health education and I have six credits beyond my bachelor of science and 34 credits toward a masters degree in administration and supervision. I just have not applied for the masters degree but I have the courses and I have State certification as a school administrator.

Q What was your prior experience before your job in the District Office?

THE COURT: I think you have gone through that.

MS. ROTHMAN: No, I don't think so your Honor.

THE WITNESS: The one prior to that, I was assistant principal and prior to that -- the school year of '67 to '68 I was acting assistant principal. From '64 through '67 I was attendance coordinator and teacher and from '58 to '64 I was a teacher.

MS. ROTHMAN: I have no further questions.

MR. HOFFMAN: No further questions.

(Cont'd on next page.)

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